

Merritt, Rachel

From: Klosterman, Margo
Sent: Monday, December 01, 2014 9:42 AM
To: Merritt, Rachel
Cc: Eichner, Teresa
Subject: FW: Review of Drafted Amendments to 2014-386

Here is a copy of the document as you requested. Please let me know if you have any questions.

Best,
Margo

From: Hand, Chris
Sent: Monday, December 01, 2014 2:46 AM
To: Eichner, Teresa; Klosterman, Margo
Cc: Gabriel, Jason; Benson, Ashley; Durden, Stephen; Greive, Patrick; Sidman, Margaret; Johnston, Paige; Belton, Ronnie; 'Jim Linn'
Subject: Review of Drafted Amendments to 2014-386

Teresa and Margo:

I have reviewed the various amendments -- three of which were apparently revised on Wednesday afternoon and sent for review to Council members, the Council Auditor's Office, and multiple OGC attorneys but not to the party that requested the introduction of 2014-386 (the Mayor's Office).

Given the fact that 2014-386 was introduced at the request of the Mayor, and the fact that the Mayor's Office and Finance Department now have more than 3 years of experience in these pension reform issues and thus have the expertise to spot potential issues, I am surprised that we were not provided a copy of these additional changes to the different amendments. If they were sent to someone in the Mayor's Office without my knowledge, then I withdraw my surprise.

Fortunately I received copies late Sunday afternoon.

My intent below is not to undermine (or endorse) any of the amendments that the Rules and/or Finance Committees made but merely to point out issues that should probably be resolved before Rules and Finance officially move this legislation to the full Council.

Please note that the page and line numbers of the substitution that Merriane Lemueur sent on November 10 at 11:57 AM are consistently a couple of lines off those cited in the various amendments, but I assume that OGC has a correct version with the correct page and line numbers.

Legislative Language Provided on Tuesday, November 25:

1. "Crescimbeni Amendment", which makes ensures that the Board and PFPF Executive Director are subject to the financial disclosure laws, appears to be consistent with the discussion at the Joint Rules/Finance Committee meetings. OGC appears to have correctly captured this amendment language.
2. "Crescimbeni Second Amendment", which provides for a sunset provision, appears to be consistent with the discussion at the Joint Rules/Finance Committee meetings. OGC appears to have correctly captured this amendment language.

3. "Gulliford Second Amendment" appears to capture Councilman Lumb's amendment to the Gulliford Second Amendment as discussed at the Joint Rules/Finance Committee meetings.

However, I recommend that Jim Linn review the amended COLA language (page 31, line 2) before it is inserted into 2014-386 and the Agreement just to make sure it passes legal muster. I would also encourage OGC to have City Treasurer Joey Greive look at the amended DROP language which provides for the "net rate of return after the deduction of all related and direct expenses for the preceding year" (page 44, line 14) to ensure that it is sufficiently specific to meet the amendment's aims.

4. **There is a Problem with the OGC Language for "Gulliford Fourth Amendment"**:

At Tuesday's Joint Rules/Finance meeting, CM Crescimbeni asked for clarification that the changes proposed by the "Gulliford Fourth Amendment" only impact the two City-appointed Trustees to the PFPF Board, and CM Gulliford confirmed that was the case. See 42:35 to 43:08 on the video of the Tuesday, 11/25 Joint Rules/Finance meeting.

However, the OGC language for "Gulliford Fourth Amendment" also appears to apply that language to the Fifth Member. But this should be an easy fix. One could keep the existing language in the substitute, and simply add a new sentence imposing the new requirements (10 years of financial experience, not in a City pension plan) to the City-appointed trustees only. Something like this: "Trustees appointed by the City, as well as any persons selected as the fifth member of the Trustees by the other four trustees, shall continue to be persons with professional financial experience and/or public pension experience, governance experience, institutional investment experience, community experience and wisdom, or comparable professional training, knowledge, and expertise. Trustees appointed by the City shall not be a participant or enrolled in a city pension plan, shall be limited to a maximum of two four year terms, and shall have at least 10 years of professional financial experience."

5. "Gulliford Fifth Amendment" was fairly straightforward, and OGC appears to have correctly captured this amendment language.

Revised Legislative Language Provided to Everyone but the Mayor's Office on Wednesday, November 26

6. "Gulliford Third Amendment" changed substantially from the version distributed last Tuesday to the one distributed to everyone but the Mayor's Office last Wednesday. A strike and one sentence insertion became a strike and long paragraph insertion.

This issue was discussed on Monday, November 24 (see video starting at 1:48:18, and in particular Boyer discussion starting at 1:52:12, and again at 2:01:15). CW Boyer introduced an amendment that simply clarified Council's ability to impose on pension benefits could start as early as three years after the effective date of the agreement.

The "Gulliford Third Amendment" distributed on Tuesday of last week made that simple clarification. But the new version of the "Gulliford Third Amendment" that was distributed last Wednesday went much further and added a long paragraph as opposed to the single clarification. That new long paragraph isn't supported by any of the discussion from the Joint Rules/Finance meeting on Monday, June 24.

Moreover, much of this new language seems entirely unnecessary since the legislation/agreement already states that **"Nothing in this section shall be construed to impair the rights provided under Article 1, Section 6 of the Florida Constitution or Chapter 447, Florida Statutes."** The new language provided to Council on Wednesday afternoon adds three sentences that say the exact same thing.

7. "Gulliford Sixth Amendment" is not consistent with what was discussed in the Joint Rules/Finance Committee on Monday, November 24.

First, while there was some discussion of changing the effective date of annual Chapter 175/185 allocations, there was no discussion about changing how the City can allocate these funds. Yet this new amendment language now changes (without any discussion on 11/24) how the City can use them from “the benefit of the plan” to “as an additional unfunded liability payment”. Those changes on page 12 and in the Agreement have significant financial implications for the City, including on the amount of the annual ARC payment to the Police and Fire Pension Fund (PFPF), yet they are being made without the Rules and Finance Committees having authorized those changes.

Second, The amendment also fails to note that the at least \$60,915,907.00 transferred from the PFPF to the unfunded liability is part of the City’s total \$400M contribution to accelerate the pay down of the unfunded liability.

Third, if you review CM Gulliford’s comments starting at 1:02:00 in the afternoon session on Monday, 11/24, this new amendment language does not include much of what he said, including language that gives the PFPF the right to direct the Chapter 175/185 funds to a share plan if the City does not make its minimum additional annual contribution or the equivalent thereof.

8. The “Boyer Amendment” is again not consistent with the discussion at the Joint Rules and Finance Committee on Monday, 11/24.

In addressing her amendment, CM Boyer said that she simply wanted language making it clear that the City was not ratifying or approving the Thirty Year Agreement. Check out 1:16:26 in the afternoon session on Monday, 11/24.

Yet this memorialized amendment now “replaces and supersedes” the Thirty Year Agreement, which is a potential problem since there are many provisions in that agreement not related to pension benefits that would not be subject to a legal challenge. “Replace and supersede” could be read as striking those provisions, including those beneficial to the City. Shouldn’t this amendment simply reference the portion of the Thirty Year Agreement that has been or could be challenged legally – the section related to pension benefits?

That’s all I could find in my review of the language and in the meeting video. I hope that is helpful to everyone who receives this email.

Chris Hand
Chief of Staff
Office of Mayor Alvin Brown
117 West Duval Street, Suite 400
Jacksonville, FL 32202
Direct: (904) 630-1253
Mayor’s Office (904) 630-1776
General Information: (904) 630-2489 (630-CITY)
Email: chand@coj.net

Connect with Mayor Brown and the City of Jacksonville!



For general information, contact [630-CITY \(2489\)](tel:9046302489).

View our [calendar](#), sign up for [newsletters](#) or learn about [volunteer opportunities](#).

***** Please note that under Florida's very broad public records law, email communications to and from city officials are subject to public disclosure. *****