



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

Marc El Hassan, Chair  
Greg Radlinski, Vice Chair  
Joe Andrews, Secretary

## RESOLUTION 2012-4

### **A RESOLUTION REQUESTING THE GENERAL COUNSEL TO ADVISE THE COMMISSION ON WHETHER THE 30-YEAR PENSION FUND CONTRACT BETWEEN THE CITY AND THE POLICE AND FIRE PENSION FUND BOARD OF TRUSTEES IS LEGAL AND ENFORCEABLE**

**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, operations and practices; and

**WHEREAS**, it is the responsibility of the Commission to provide important information on and to raise public awareness of public finance issues by researching issues and reporting its findings to the Mayor and City Council, 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**, an agreement exists between the City of Jacksonville and the Police and Fire Pension Fund (PFPF) Board of Trustees, dated March 5, 2001, by which the local Fraternal Order of Police union and the Jacksonville Association of Firefighters union have delegated their powers as collective bargaining units representing their employees in contract negotiations regarding pension benefits to the PFPF Board of Trustees, which agreement has a term of 30 years; and

**WHEREAS**, the Office of General Counsel (in the form of an e-mail from Deputy General Counsel Steve Rohan to TRUE Commissioner Ted Wendler dated 4.17.11) states that 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 PFPF was not intended to and did not bind the City regarding benefits; 2) According to the City Charter only the City Council can establish benefits - not the PFPF; absent a waiver, that can only be accomplished through collective bargaining; 3) The PFPF has acknowledged it has no power to set benefits; 4) Chapter 447, *Florida Statutes*, establishes that all collective bargaining 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; and

**WHEREAS**, the City's Comprehensive Annual Financial Report of September 30, 2011 stated the Police and Fire Pension Fund (PFPF) was 42.94 % 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, 2011 states that the Unfunded Actuarial Accrued Liabilities (UAAL) of the PFPF pension plan alone is ONE BILLION THREE HUNDRED AND EIGHTY FIVE MILLION dollars; and

**WHEREAS**, the Council Auditor stated "...the October 1, 2011 actuarial report was not the source of PFPF's information within the CAFR. PFPF submitted its GASB 27 disclosure to the City which was used for PFPF's financial statements as well as the City's CAFR. Also, there is a disclaimer that information in the PFPF Actuarial Report could change based on final review by the City's Actuary, which is what PFPF says they are waiting on."; and

**WHEREAS**, in the ruling on the lawsuit Concerned Taxpayers of Duval County vs. City of Jacksonville [Case No.: 16-2011-CA-4348] Circuit Court Judge James H. Daniel stated "... the legislature intended for the PERC "to provide an exclusive method for resolving labor disputes between public employers and public employees, with the Public Employees Relations Commission ["PERC"]) having preemptive jurisdiction over such matters."; now therefore

**BE IT RESOLVED**, that as authorized by Sec. 108.501, Ordinance Code, the TRUE Commission requests the General Counsel to advise the Commission whether the thirty year agreement between the City and the Police and Fire Pension Fund Board of Trustees as it relates to governing collective bargaining matters for a period exceeding the three years is legal and enforceable.

Adopted by an 11-0 vote of the Commission on the 7<sup>th</sup> day of June, 2012.

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Marc Majed El Hassan  
Chairman