

**OFFICE OF THE CITY COUNCIL**

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**CITY COUNCIL LUNCH AND LEARN MEETING MINUTES**

**COLLECTIVE BARGAINING AND PENSION BENEFITS**

**March 27, 2017**

**11:30 a.m.**

**Location:** Lynwood Roberts Room, 1st floor, City Hall – St. James Building; 117 West Duval Street,

**In attendance:** Council Members Lori Boyer (President), Greg Anderson, Anna Lopez Brosche, Al Ferraro, Tommy Hazouri, Joyce Morgan

**Also**: Jason Gabriel, Peggy Sidman, Paige Johnston and Merriane Lahmeur – Office of General Counsel; Kirk Sherman, Kyle Billy, Philip Peterson, Kim Taylor and Brian Parks – Council Auditor’s Office; Cheryl Brown – Council Director/Secretary; Carol Owens and Jessica Matthews – Legislative Services Division; Steve Cassada and Louie Marino – Council Staff Services; Jeff Clements – Council Research Division

**Meeting Convened**: 11:39 a.m.

General Counsel Jason Gabriel introduced the topic of collective bargaining and pension benefits in Jacksonville, beginning with some historical perspective on how the City has come to be in its current state. Pensions and collective bargaining are governed by the Florida Constitution, state law, City ordinance and City Council Rules. City Council can play several different roles in the collective bargaining process depending on the stage of the process and the actions of other parties. The City has 3 pension plans – the General Employees Pension Fund (1937), the Correction Officer Pension Fund (created within the GEPP and administered by the City) and the Police and Fire Pension Fund (1937). The JEA employees are part of the GEPP. During the collective bargaining process the City Council acts as a legislative body consulting with the executive branch and approving or rejecting (but not modifying) agreements bargained between the executive and the unions. During an impasse process the Council becomes a quasi-judicial body resolving disputes between the executive branch and the unions. In response to a question from Council President Boyer, Mr. Gabriel said that statements made by council members in the first part of the process could potentially be used as evidence to disqualify a council member from the quasi-judicial process during impasse, so council members should be very careful about taking positions on issues being negotiated during the negotiating process.

Mr. Gabriel reviewed the long and complex history of collective bargaining and pensions since 1990 when the Police and Fire Pension Fund Board was made an independent agency of the City (rather than a City board) by action of the Florida Legislature. One of the new board’s first actions was to file a lawsuit against the City regarding prior management of the plan which led to a settlement agreement (1992) that made the PFPF board the de facto negotiator on behalf of the police and firefighter unions regarding pension issues. In 2001 the so-called “30-year agreement” was adopted and subsequently amended several times. That amendment restated and amended the 1992 settlement agreement as previously amended. Several lawsuits were filed at various times over various issues: *Curtis Lee v. City of Jacksonville* (2011, alleging Sunshine Law violations invalidating the settlement agreement); *Randall Wyse et. al. v. City of Jacksonville* (2013, alleging violation of terms of the Restated Agreement when attempts were made to negotiate pension benefits); and *Frank Denton v. Mayor Alvin Brown et. al.* (2013, alleging that the mediation process in the Wyse case violated the Sunshine Law and resulted in a finding by the appellate court that the PFPF Board was collectively bargaining for the unions and the original settlement in the Wyse case was void from the outset). Mr. Gabriel agreed with President Boyer’s assessment that the court rulings that dealt with Sunshine Law issues also contained considerable language regarding the requirements for pensions to be collectively bargained by the City and the unions and to meet all of the state law requirements for collective bargaining which could not be accomplished in the form of mediated settlements of lawsuits.

Shortly after his election Mayor Alvin Brown appointed a Pension Reform Task Force to study and provide a comprehensive report on pensions, much of which the mayor then incorporated into legislation (Ordinance 2013-366, denied by Council). Ordinance 2014-386 incorporating recommendations of the Task Force and agreements negotiated in the sunshine with the PFPF Board, was approved by Council with amendments but not approved by the PFPF Board, which made a counter-offer. That counter-offer was introduced as Ordinance 2015-54 and was denied by Council. Council Member Gulliford then introduced Ordinance 2015-304 as a counter-proposal back to the PFPF which was approved by both City Council and the PFPF Board. That bill incorporated numerous provisions regarding pension fund governance, pension benefits design, and funding issues. Mayor Brown had proposed funding the unfunded liability of the PFPF plan via an interlocal agreement with the JEA for a $120,000,000 contribution in exchange for several modifications to JEA’s charter and other desired changes (Ordinances 2015-150 and -151, both withdrawn).

When Mayor Curry took office he proposed a new solution to the pension dilemma by means of a state law (Chapter 2016-146, Laws of Florida) that authorized a voter referendum (authorized by Ordinance 2016-300-E) to approve a pension sales surtax to fund pension liability amortization. The law imposed numerous conditions on the use of the sales tax proceeds should the referendum be approved, including closure of at least one of the City’s pension plans which must be less than 80% funded. In response to a question by Council Member Hazouri, Mr. Gabriel said that the decision on the use of “chapter dollars” (insurance premium rebates to the City for the benefit of police and fire pensions pursuant to Chapters 170 and 171, Florida Statutes) is solely the province of the City and the unions via collective bargaining. The PFPF Board now has no role to play in determining the use of those funds, it merely administers the decisions made pursuant to the collective bargaining process.

Mr. Gabriel reported that the administration plans to submit a package of collective bargaining agreement ratifications and pension plan ordinances for introduction at tomorrow night’s council meeting to be added to the addendum to the agenda. Ms. Boyer said that a timeline and process for a final decision will be discussed at tomorrow’s Council agenda meeting, if all the bills are ready for introduction. A stand-alone workshop and/or Committee of the Whole will be scheduled for April 6th. In response to a question from Council Member Anderson about the potential for hearing from expert witnesses, Ms. Boyer said that it may be appropriate at the April 6th meeting which will concentrate on the financial aspects of the proposals if that is the expert’s area of expertise. She is open to scheduling another meeting if the Council wants to hear more about the legal framework or has other questions needing attention. Mr. Gabriel anticipates introduction of 11 collective bargaining approval ordinances, 3 pension code amendments and the ordinance instituting the pension sales surtax.

**Meeting adjourned:** 1:00 p.m.

Minutes: Jeff Clements, Council Research

3.27.17 Posted 2:00 p.m.

Tapes: City Council Lunch and Learn – LSD

3.27.17