

**OFFICE OF THE CITY COUNCIL**

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**CITY COUNCIL COMMITTEE OF THE WHOLE MEETING MINUTES**

**April 19, 2017**

**1:00 p.m.**

**Location:** City Council Chamber, City Hall – St. James Building; 117 West Duval Street,

**In attendance:** Council Members Lori Boyer (President), Greg Anderson, Danny Becton, Aaron Bowman, Anna Lopez Brosche, Reggie Brown, Doyle Carter, John Crescimbeni, Garrett Dennis, Al Ferraro, Reginald Gaffney, Tommy Hazouri, Jim Love, Sam Newby, Matt Schellenberg, Scott Wilson

**Excused:** Council Members Bill Gulliford, Joyce Morgan, Katrina Brown

**Also**: Jason Gabriel, Peggy Sidman, Paige Johnston, Stephen Durden – Office of General Counsel; Kyle Billy, Kim Taylor, Phillip Peterson, Brian Parks – Council Auditor’s Office; Carol Owens and Philip Zamarron – Legislative Services Division; Steve Cassada – Council Staff Services; Sam Mousa, Ali Korman Shelton, Jessica Baker and Jordan Elsbury – Mayor’s Office; Mike Weinstein and Joey Greive – Finance Department

**Meeting Convened**: 1:04 p.m.

Council Member Love gave the invocation and President Boyer led the Pledge of Allegiance.

President Boyer explained that all the pending collective bargaining and pension amendment bills had been discharged from their committees of reference by virtue of a previous action of the Council and were before the body, sitting as a Committee of the Whole, for recommendations. A second Committee of the Whole meeting has been scheduled for next Monday the 24th at 1:00 p.m. if necessary (if the bills are not acted upon by the committee today) and a Special Council Meeting has been scheduled for Monday the 24th after the Committee of the Whole for the council to take up all of the bills outside of the time constraints of the regular council meeting on the 25th. Either or both of those meetings on the 24th can be cancelled if the Council feels that they are not needed and that final action could be taken without much debate on the 25th.

In response to a question from Council Member Anderson, General Counsel Jason Gabriel explained that the Florida Division of Retirement’s comments on the pension proposal were received by the Council last week prior to the council meeting at which the last public hearing was held, so the council is in the proper posture to act on the bills today and next week.

Chief Administrative Officer Sam Mousa reported that to the best of his knowledge, all questions and requests for information from all council members and the Council Auditor’s office have been answered and there are no requests left outstanding.

Chief Financial Officer Mike Weinstein distributed one replacement page for the PowerPoint presentation made at the last meeting (no substantive change, just clarification). He reiterated the three goals of pension reform: 1) pay off the unfunded liability without raising taxes, using the state-authorized local option sales tax; 2) keep all pension funds actuarially sound at all times; and 3) provide short-term budget relief to allow the budget to address immediate needs. He quoted several lines from the Police and Fire Pension Fund board of trustees’ letter to the Council dated April 18, 2017 which indicated that the pension board is no longer in the benefit negotiation business and is ready and willing to administer and operate whatever plan the Council may enact. The PFPF board made several comments/recommendations for the Council’s consideration. They included: 1) a recommendation to increase the minimum liquidity ratio from 5% to 7%; 2) suggestion to add a provision that legal use of “chapter funds” shall be “as determined by the legally recognized bargaining units and thereafter adopted by ordinance by the City Council”; 3) a recommendation to remove the “subject to appropriation” language from the bills regarding the City’s appropriations to pension contributions.

Mr. Weinstein said that no pension plan in the country that he is aware of has enacted a floor on a liquidity ratio guaranteeing that the City will always make its required employer contribution to keep the fund sound and liquid and the administration is comfortable with the 5% ratio. He recommended that the Council not get involved ratifying the use of “chapter funds” since that is a decision to be made jointly by the PFPF board and the collective bargaining units representing the police and fire employees.

In response to a question from Council Member Schellenberg, Mr. Weinstein agreed to provide him with a projection of 3 years of upcoming payouts to DROP participants. In response to a question from Council Member Crescimbeni, Mr. Weinstein confirmed that the City will eventually (by 2048 – 2050) be making a larger guaranteed minimum payment than necessary when the sales tax kicks in and provides a large cash infusion, which he recommended be used to continue paying down the unfunded liability as quickly as possible. Mr. Crescimbeni asked for clarification of what will happen to the mandatory minimum payments language when the defined benefit plans are closed out and actuarial needs are less than the minimum required payments. In response to a question from Council Member Becton, Mr. Weinstein indicated that the annual savings in the short term will be placed in a designated reserve account in the budget to be used for (preferably) non-recurring expenses, which would be phased out in 5 or 6 years.

Council Auditor Kyle Billy listed the items his office had reviewed in the last 2 weeks: normal legislative reviews of the 14 bills (which produced amendments to 2 bills and a proposed substitute to a third); review of the projected cost of salary increases (which appear to be accurate); review of payroll growth assumptions (which were calculated in accordance with state law); review of mortality table assumptions (which were calculated in accordance with state law); review of projected sales tax growth rate (which appears to be reasonable based on the history of the sales tax for tolls beginning in 1990); review of General Fund/ General Services District revenue growth rates (which appear to be reasonable based on 17 years of trend data); and review of actuarial impact statement assumptions (which appear reasonable with the exception of the beginning sales tax value utilized by the PFPF actuary which did not account for the portion of the sales tax that will no longer go to the Beaches and Baldwin; that should be adjusted when the next actuarial valuation report is performed).

Mr. Billy reviewed a list of 11 items in the bargaining agreements and pension ordinances that he wanted to bring to the Council’s attention so they were aware of the potential consequences if adopted. He made two recommendations: the Council should determine the dollar amount of revenue growth that can be utilized for recurring expenditures; and the City should have future discussions with JEA to discuss some form of reciprocity providing a benefit to the City for the cost savings that the JEA will realize from the proposed pension changes. Council Member Crescimbeni asked for further information on the mortality tables being used in the various agreements; he understands that different tables are being used for the actuarial calculations and for the DROP rate of return analysis and wants to know why. In response to a question from Council Member Reggie Brown, Mr. Mousa described the collective bargaining re-opener language, which will apply to factors other than wages and pension benefits. In response to a question from Council Member Dennis, City Treasurer Joey Greive described the option available to a surviving spouse of a deceased member of the defined contribution plan to either take a distribution of the defined contribution amount or to transfer the DC fund balance to the DB survivor and disability account and take a define benefit distribution from there.

Council Member Hazouri advocated for an amendment that would require the City Council to review the assumptions and contribution amount every year, regardless of whether a liquidity trigger is tripped or a funding threshold is not met. Mr. Mousa said that it was the administration’s intent that Council review the numbers every year and make adjustments as necessary, and tightening up language to make that even clearer is acceptable. Council Member Bowman questioned how the salary growth assumptions are being projected beyond the next 3 years given the city’s population growth and the need for more employees to both serve that growth and to improve service levels. Mr. Mousa said that the growth of the workforce is necessarily a year-to-year decision in the budget process based on what the Mayor proposes and the Council approves to meet then-current needs, as resources permit. Mr. Bowman expressed reservations about the failure of the models to show any projected employee growth, which is an unreasonable assumption. In response to a question from Council Member Anderson about savings from pension reform versus the costs of salary increases under the new collective bargaining agreements, Mr. Billy noted that the cost of salary increases will outstrip the pension contribution savings in the fourth year and reiterated that the initial savings should be used (at least primarily) for one-time uses rather than recurring operating expenses that will impact budgets in the fourth year and beyond.

In response to a question from Council Member Love about whether the package of bills under consideration is sufficient to implement the half-cent sales tax for pension amortization, Mr. Weinstein indicated that they are.

General Counsel Jason Gabriel updated the council on the pending litigation against the pension sales tax, which is now assigned to retired senior judge Don Moran and is set for trial starting on May 24th. He is confident that the City is in a good posture regarding the constitutionality of the tax and the validity of the referendum ballot language. In response to a question from Council Member Crescimbeni about what happens to pay raises, pension contribution rates, etc. should the plaintiff prevail in court and the sales tax plan be invalidated, Mr. Gabriel said that the collective bargaining agreements provide that any benefits paid out prior to the ruling are allowed to stand, but the parties then go back to the bargaining table. His best judgement is that a court would rule that the then-status quo would remain in force and the court would probably not require the City to take retroactive action to its detriment. In response to another question about the impact of this 2017 pension reform on the actions taken by Council in the 2015 pension reform, Mr. Gabriel said that this current method fits within the confines of the 2015 agreement and is not contradictory. The City may at some point want to ask the court and plaintiff in the 2015 case to vacate that settlement agreement.

In response to a question from Council President Boyer, Mr. Gabriel said he has every reasonable expectation that a judge in the litigation on the constitutionality of the sales tax would not impose any requirement on the City to continue making future payments if the sales tax were to be invalidated without further collective bargaining. Mr. Gabriel said that the key factor is an adverse decision of the circuit court which triggers a suspension of the plan’s implementation and could trigger a new round of collective bargaining.

Stephen Durden outlined the major amendments to 2017-257 and 2017-259 and the substitute for 2017-258. The changes to 2017-258 included the following: 1) comparability of disability and survivor rights among the three defined contribution plans; 2) inclusion within the defined benefit plans of specific language regarding the option to shift from the DB to the DC plan or vice versa in the first 5 years; 3) clarification of contribution rates for disability benefits between the effective date of the ordinances and October 1, 2017. The amendments to 2017-257 and -259 were primarily clarifications and corrections, with the exception of the insertion of several specific dollar amounts and percentages in the bills to fill in blanks in the bills as originally filed.

In response to a question from Council Member Crescimbeni, Mr. Weinstein confirmed that the $44 million additional employer contribution for next year calculated based on a change of assumptions by the PFPF’s actuary is reflected in the handouts distributed at the last meeting. He also stated that the assumed rates of return on investments through 2049 are the current assumed rates on the GEPP and PFPF plans. In response to a question about whether the City could impose any changes in contributions for the first 10 years if the triggers are not tripped, Mr. Weinstein said they could not be imposed but could be subject to bargaining if both parties agree. He also said that the administration is proposing to extend the negotiated pay raises agreed to by the unions covered by the GEPP to all non-collectively bargained employees. In response to a question about why the administration chose a 5% liquidity trigger rather than something lower or higher, Mr. Weinstein said it was arrived at by weighing the competing interests of maximizing budget relief in the short term while ensuring the solidity of the fund and reducing the unfunded liability as quickly as possible.

In response to a question from Council Member Brosche, Mr. Weinstein said that if it is the Council’s desire to have a formal process adopted to perform the annual pension assumptions review, the administration would be willing to introduce that along with the budget ordinances this summer. In response to another question, Mr. Weinstein said that the 30-year amortization assumption will need to be backed down to a shorter time frame sometime in the late 2030s/early 2040s in order to increase contributions to fully fund the pensions by the time the sales tax ends no later than 2061. He reiterated the need to use the early year savings on non-recurring expenses and Ms. Brosche advocated for arriving at a method to ensure that happens beyond the term of the current Mayor, Council and Council Auditor. Mr. Mousa said that the administration and Council Auditor have been meeting and will make a proposal during the budget process this summer. Ms. Brosche suggested an amendment requiring a super-majority vote by the Council to increase the assumed sales tax growth rate above 4.25% to discourage raising the rate in future years if the economy should have a couple of good years.

In response to a question from Council Member Anderson about whether employees covered under the defined contribution plan could be covered by Social Security, Mr. Weinstein said that option was explored but can’t be accomplished in the short term because the new DC plans don’t have any members yet. Once there are members in a few years, those employees would have the option to vote to be covered by Social Security. In response to another question about what advice he would have for future administrations and councils beyond the next three years, Mr. Weinstein recommended using historical data on rates of return and erring on the side of conservatism in projecting returns. In response to a question from Council Member Becton he explained the process of arriving at the projections of the growth of City revenues over time and said the 3% rate is fairly conservative. Mr. Becton reported that the City’s ad valorem property tax revenues grew from $460 million to $616 million over the past 10 years based on figures he received from the Property Appraiser’s office.

Returning to the issue of potential participation in Social Security, Ms. Boyer asked for clarification of what the employer contribution would be if the employees elected to be covered by Social Security. Mr. Weinstein said that the election on the option and the employer contribution if that referendum were to succeed would be subject to collective bargaining. Mr. Gabriel confirmed that implementation of Social Security coverage would be a change in the benefit package that would require collective bargaining with the City. Mr. Weinstein said he believes that the same process would apply as occurred with this round of pension reform – all of the unions with members covered by the DC plan would have to agree to hold the referendum and then agree to an identical plan. Mr. Mousa said the administration’s position would be that the employer’s Social Security contribution would be subtracted from the 25% contribution to the defined contribution retirement plan.

Pursuant to the Council Rules regarding chairmanship of the Committee of the Whole, the Council agreed to allow President Boyer to continue to act as the Chair for the remainder of the meeting while debate and votes on bills take place.

Mr. Gabriel said that the on-file documents attached to the City collective bargaining agreements are unchanged from the time of filing. Jody Brooks of the General Counsel stated that the on-file documents for the JEA collective bargaining agreements are substantively unchanged from the filed versions except for being the clean versions rather than the red-lined versions as filed.

**2017-246** (approving collective bargaining agreement between JEA and Professional Employees Association)

**Motion**: amend to attach Revised On File Agreement (signed and executed version) – **approved unanimously**.

**Motion**: approve 2017-246 as amended – **approved unanimously**.

**2017-247** (approving collective bargaining agreement between JEA and AFSCME Local 429)

**Motion**: amend to attach Revised On File Agreement (signed and executed version) – **approved unanimously**.

**Motion**: approve 2017-247 as amended – **approved unanimously**.

**2017-248** (approving collective bargaining agreement between JEA and JEA Supervisors Association)

**Motion**: amend to attach Revised On File Agreement (signed and executed version) – **approved unanimously**.

**Motion**: approve 2017-248 as amended – **approved unanimously**.

**2017-249** (approving collective bargaining agreement between JEA and LIUNA Local 530)

**Motion**: amend to attach Revised On File Agreement (signed and executed version) – **approved unanimously**.

**Motion**: approve 2017-249 as amended – **approved unanimously**.

**2017-250** (approving collective bargaining agreement between JEA and IBEW Local 2358)

**Motion**: amend to attach Revised On File Agreement (signed and executed version) – **approved unanimously**.

**Motion**: approve 2017-250 as amended – **approved unanimously**.

**2017-251** (approving 3 collective bargaining agreements between the City and FOP Lodge 5-30)

**Motion**: approve 2017-251 – **approved unanimously**.

**2017-252** (approving collective bargaining agreement between the City and IAFF Local 122)

**Motion**: approve 2017-252 – **approved unanimously**.

**2017-253** (approving collective bargaining agreement between the City and Communications Workers of America)

**Motion**: approve 2017-253 – **approved unanimously**.

**2017-254** (approving collective bargaining agreement between the City and AFSCME)

**Motion**: approve 2017-254 – **approved unanimously**.

**2017-255** (approving collective bargaining agreement between the City and Jax Supervisors Association)

**Motion**: approve 2017-255 – **approved unanimously**.

**2017-256** (approving collective bargaining agreement between the City and LIUNA Local 630)

**Motion**: approve 2017-256 – **approved unanimously**.

**2017-257** (levying a ½ cent pension liability sales surtax)

**Motion**: approve the Council Auditor’s 4 amendments marked on the agenda margin (corrects title of Sec. 776.104; inserts the word “year” in Sec. 776.105; adds sales tax growth rate of 4.25%; clarifies which fiscal year is impacted by a change in the growth rate) - **approved unanimously**.

**Motion** (Anderson): amend the bill to require a super-majority (13) vote of the Council to increase the sales tax assumed growth rate above 4.25% - **the motion was tabled**.

**Motion** (Hazouri): amend the bill to require the Council to approve the sales tax assumed growth rate each year by October 31st – **approved unanimously**.

The Anderson amendment was removed from the table and debated.

**The Anderson amendment was approved.**

The President directed that all the amendments be rolled into one.

**2017-257 was approved unanimously as amended.**

**2017-258** (amend Ordinance Code Chapter 120 to close the defined benefit pension plans and create defined contribution retirement plans)

**Motion**: approve the substitute to 2017-258 as shown on the marked agenda (clarifies language for active employee death/disability program and the portion of employer and employee contributions as a funding source; clarifies that employees hired prior to October 1, 2017 will still have the options to switch between the DB and DC plans after September 30, 2017 in limited circumstances; inserts “five” as the floor for the liquidity ratio left blank in the bill as filed; inserts minimum dollar contribution amounts for General Employees and Corrections Officers that were left blank in the bill as filed; clarifies the basis for calculating the average annual growth rate in ad valorem taxes; clarifies the marriage requirement for General Employees; inserts similar “trigger” language for public safety DC members as there is for public safety DB members) - **approved unanimously**.

**Motion**: approve 2017-258 as substituted – **approved unanimously**.

**2017-259** (amend Ordinance Code Chapter 121 to close the defined benefit pension plan and create a defined contribution retirement plan)

**Motion**: approve the Council Auditor’s 4 amendments marked on the agenda margin (corrects wording, formatting and subsection references to reflect tentative agreements; clarifies basis for calculating the average annual growth rate in ad valorem taxes; inserts “five” in the blank in the liquidity ratio; inserts the reference to $110 million as the minimum contribution) - **approved unanimously**.

**Motion:** approve 2017-259 as substituted – **approved unanimously**.

A special meeting of the full council will be scheduled for 1:00 p.m. on Monday, April 24th. The Committee of the Whole previously scheduled for Monday will be cancelled.

**Meeting adjourned:** 4:14 p.m.

Minutes: Jeff Clements, Council Research

4.20.17 Posted 11:30 a.m.

Tapes: City Council Committee of the Whole meeting – LSD

4.19.17