MEMORANDUM

To: **File, City of Jacksonville**

From: **Cindy A. Laquidara, Office of General Counsel**

Re: **Budget, Millage Issues**

Date: **September 2009**

I.   Introduction and Background.

You have asked for legal guidance on the Mayor's authority as it relates to the passing of the City's budget, and the setting of the City's millage rate. The research on these issues is governed by both Florida general law, through Florida Statutes, and the Charter for the consolidated City of Jacksonville.

The unique aspect of the consolidated government has created some confusion over the years with regard to the respective roles of the Mayor and the City Council. To that end, it should be noted that county commissions do not have a form of government which provides for a veto. Accordingly, when the county is setting the millage rate, the state statutes do not anticipate a process by which the county's actions would be anything but final.

   A.   Millage Rate

         Both Florida statutes and the City's charter provide that the City Council sets the final millage rate. Under Florida Statutes, the City Council must hold the requisite public hearings, including a hearing, within prescribed time, for which the final millage rate will be set:

                (d) Within 15 days after the meeting adopting the tentative budget, the taxing authority shall advertise in a newspaper of general circulation in the county as provided in subsection **(3), its intent to finally adopt a millage rate and budget. A public hearing to finalize the budget and adopt a millage rate shall be held not less than 2 days nor more than 5 days after the day that the advertisement is first published. During the hearing, the governing body of the taxing authority shall amend the adopted tentative budget as it sees fit, adopt a final budget, and adopt a resolution or ordinance stating the millage rate to be levied.** The resolution or ordinance shall state the percent, if

any, by which the millage rate to be levied exceeds the rolled-back rate computed pursuant to subsection (1), which shall be characterized as the percentage increase in property taxes adopted by the governing body. **The adoption of the budget and the millage-levy resolution or ordinance shall be by separate votes. For each taxing authority levying millage, the name of the taxing authority, the rolled-back rate, the percentage increase, and the millage rate to be levied shall be publicly announced prior to the adoption of the millage-levy resolution or ordinance. In no event may the millage rate adopted pursuant to this paragraph exceed the millage rate tentatively adopted pursuant to paragraph (c)**.

Nothing in the Charter for the City of Jacksonville would conflict with this provision; and even if it were to conflict, the general law stated above would govern. In the Charter, the process is addressed by providing the Mayor with only a line-item veto of the budget, which line-item veto can be overridden by a simple majority of the council:

a. Section 6.05 *Mayor's veto power* – The mayor may veto any ordinance or resolution adopted by the council except ordinances and resolutions relating to . . . .Any ordinance or resolution adopted by the council over which the mayor has a veto power shall be presented to the mayor for his consideration and recommendations. If he approves the ordinance or resolution he shall sign it and it shall become effective according to the terms thereof. If he disapproves he shall return the ordinance or resolution to the council without his signature, accompanied by a message indicating the reasons for his disapproval and recommendations. Any resolution or ordinance so disapproved by the mayor shall become effective only if, subsequent to its return, it shall be adopted by two-thirds of all the members of the council present at any meeting; **except that if the mayor vetoes any item in the consolidated budget appropriation[1], only a majority vote of the members of the council shall be required to adopt the same as law over the mayor's veto.**

Of course, it should be noted that the Mayor's line-item veto only reduces the budget by removing an approved item; there is no method for the Mayor to increase the budget expenditures. Thus, while this provision may be read to conflict with the statutory provision designating that the Council approve the budget and set the millage rate, finally, at a noticed public meeting in accordance with Fla. Stat. §200.065, that issue need not be reached at this time.

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[1] This implies that the mayor could veto only part of the budget ordinance, and not veto the entire ordinance.

For purposes of compliance with Florida law on setting the millage rate and passing the budget, the better reasoning would include the City's consolidated government as a county:

(b) **"Municipality" means a municipality created pursuant to general or special law but excludes metropolitan and consolidated governments as provided in s. 6(e) and (f), Art. VIII of the State Constitution,[2] which shall be considered county governments.** Such municipality must have held an election for its legislative body pursuant to law and established such a legislative body which meets pursuant to law.

This is also consistent with Section 1.01 *Consolidated government,* in our Charter, which provides in (b) that "The consolidated government has and shall have jurisdiction as a chartered county government . . . .and has and shall have jurisdiction as a municipality throughout Duval County except [for the Beaches and Baldwin]. The budget that the City Council adopts is indeed the County budget, inclusive all county expenditures and those municipal expenditures falling within paragraph (b).

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[2] The Charter for the City of Jacksonville provides that it is in passed under Art. 9 section 1 of the 1885 constitution, which is in full force and effect under Article VIII of the Constitution of the State of Florida. Article VIII section 3 provides an additional avenue for the creation of a consolidated government, but only of city-county functions.