

1 Introduced by Council Member Schellenberg:
2

3 **RESOLUTION 2014-653**

4 A RESOLUTION OF THE CITY COUNCIL OF THE CITY
5 OF JACKSONVILLE URGING THE MAYOR AND THE
6 OFFICE OF GENERAL COUNSEL TO CONTINUE THE
7 LITIGATION STYLED RANDALL WYSE, ET AL, VS.
8 CITY OF JACKSONVILLE, ET AL, CASE NO. 3:13-CV-
9 121-J-34MCR TO COMPLETION TO DETERMINE THE
10 LEGAL VALIDITY OF THE "THIRTY YEAR AGREEMENT"
11 BETWEEN THE CITY OF JACKSONVILLE AND THE
12 JACKSONVILLE POLICE AND FIRE PENSION FUND
13 BOARD OF TRUSTEES AND THE APPROPRIATE ENTITY
14 TO NEGOTIATE FOR POLICE AND FIRE PENSION
15 BENEFITS OF TH EPOLICE AND FIRE PENSION FUND;
16 PROVIDING AN EFFECTIVE DATE.
17

18 **WHEREAS**, the Police and Fire Pension Fund (the "PFPP") is
19 retirement Plan for Jacksonville law enforcement officers and
20 firefighters and is implemented by the Jacksonville Police and Fire
21 Pension Fund Board of Trustees (also referred to herein as the
22 "Board of Trustees"), an independent agency of the City of
23 Jacksonville created by special act of the Florida Legislature; and

24 **WHEREAS**, in the fall of 2012, the City Council authorized the
25 Office of General Counsel to commence litigation to determine the
26 legal validity of the establishment of the Jacksonville Police and
27 Fire Pension Fund Senior Staff Voluntary Retirement Plan through
28 Resolution 2012-624-A; and

29 **WHEREAS**, in February 2013, a suit was filed against the City
30 styled *Randall Wyse, et al, vs. City of Jacksonville, et al*, Case

1 No. 3:13-cv-121-J-34MCR (the "Wyse" litigation), to determine
2 whether the Board of Trustees is the appropriate entity to
3 negotiate for police and fire pension benefits; and

4 **WHEREAS**, the City made counterclaims in the *Wyse* litigation as
5 to the legal validity of the "Thirty Year Agreement" which includes
6 all prior settlement agreements between the City of Jacksonville
7 and the Board of Trustees (as approved by Ordinances 2000-1164-E,
8 2003-303-E, 2003-1338-E, and 2006-508-E); and

9 **WHEREAS**, since initiation of the litigation in 2013, the
10 Mayor, through the Administration and the Office of General
11 Counsel, representing the City of Jacksonville, and the Board of
12 Trustees, representing the PFPF, have engaged in settlement
13 negotiations which would further amend the "Thirty Year Agreement";
14 and

15 **WHEREAS**, in furtherance of settlement, the Administration, on
16 behalf of the Mayor, has filed Ordinance 2014-386, now pending
17 before City Council, which would purportedly become the Fourth
18 Amendment to the "Thirty Year Agreement"; and

19 **WHEREAS**, approval of Ordinance 2014-386 by City Council would
20 ultimately result in the approval of the Fourth Amendment to the
21 "Thirty Year Agreement" by both the PFPF and the City; and

22 **WHEREAS**, such approval of the Fourth Amendment would in
23 essence validate and affirm the legality of the "Thirty Year
24 Agreement" and would likely provide for a Consent Judgment that
25 would settle all claims made by both parties in the *Wyse* litigation
26 without addressing the validity of the "Thirty Year Agreement" or
27 the merits of the parties' claims; and

28 **WHEREAS**, it is Council's belief that the questions of law
29 raised in the *Wyse* litigation are decided appropriately through the
30 court process and by final adjudication of the claims made in the
31 legal proceeding by a judge, rather than by further amending the

1 "Thirty Year Agreement", which Council believes is illegal, invalid
2 and not binding upon the City; and

3 **WHEREAS**, the Council recognizes that it is in the best
4 interests of the citizens of the City of Jacksonville as well as
5 the members of the PFPF that any outstanding disputes be
6 comprehensively and fully resolved through the final adjudication
7 of the claims in the *Wyse* litigation; and

8 **WHEREAS**, the Council strongly feels that amending the "Thirty
9 Year Agreement" would only add to the existing patchwork of
10 piecemeal modifications to the PFPF without implementing the far-
11 reaching changes needed to effectuate a large scale reduction in
12 the financial liability that the City currently faces; now
13 therefore

14 **BE IT RESOLVED** by the Council of the City of Jacksonville:

15 **Section 1. The Mayor and General Counsel Urged to Take**
16 **Litigation to its Conclusion on the Merits.** The Council of the
17 City of Jacksonville hereby urges the Mayor and the Office of
18 General Counsel to continue the litigation filed as *Randall Wyse,*
19 *et al. vs. City of Jacksonville, et al.*, Case No.: 3:13-cv-121-J-
20 34MCR, until final adjudication, through the appellate process if
21 necessary, to determine the legal validity of the "Thirty Year
22 Agreement" and the appropriate entity to negotiate for police and
23 fire pension benefits of the Police and Fire Pension Fund.

24 **Section 2. Effective Date.** This Resolution shall become
25 effective upon signature by the Mayor or upon becoming effective
26 without the Mayor's signature.

27 Form Approved:

28 /s/ Paige Hobbs Johnston

29 Office of General Counsel

30 Legislation Prepared By: Paige Hobbs Johnston

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1 Introduced by Council Member Schellenberg:



3 2014-704.tif

4 **RESOLUTION 2014-704**

5 A RESOLUTION ENCOURAGING THE COUNCIL PRESIDENT TO
6 USE THE AUTHORITY AFFORDED TO THE COUNCIL
7 PRESIDENT PURSUANT TO SECTION 22.02 OF THE
8 CHARTER OF THE CITY OF JACKSONVILLE, TO CONSIDER
9 REPLACING THE CURRENT CITY COUNCIL APPOINTEES TO
10 THE POLICE AND FIRE PENSION BOARD OF TRUSTEES
11 WITH GEORGE ROBBINS AND JOHN THOMPSON; PROVIDING
12 AN EFFECTIVE DATE.

13
14 **WHEREAS**, the Police and Fire Pension Board consists of five
15 trustees; and

16 **WHEREAS**, of the five trustees, two are selected by the
17 Jacksonville City Council and serves a term for four years "unless
18 sooner replaced by the City Council, at whose pleasure they serve"
19 according to Section 22.02, Jacksonville Charter; and

20 **WHEREAS**, the City Council in Resolution 2012-411-A confirmed the
21 council appointments of Walter Bussells and Adam Herbert to the Police
22 and Fire Pension Fund Board of Trustees; and

23 **WHEREAS**, since these appointments there has been significant
24 discussion about the Police and Fire Pension Fund, including several
25 lawsuits, numerous pieces of legislation and a Police and Fire Pension
26 Fund Task Force; and

27 **WHEREAS**, throughout the discussion and debate, new ideas and
28 directions have taken hold; and

29 **WHEREAS**, the Council believes that the Council appointments to
30 the Police and Fire Pension Fund Board of Trustees should reflect the
31 movement that has occurred over the last 3 years; and

1 **WHEREAS**, appointees with significant financial understanding and
2 who are not themselves partaking of a public pension should be highly
3 considered for the City Council appointees to the Police and Fire
4 Pension Fund Board of Trustees; now therefore

5 **BE IT RESOLVED** by the Council of the City of Jacksonville:

6 **Section 1.** The Council urges the Council President to
7 consider replacing the current City Council appointees to the Police
8 and Fire Pension Board of Trustees with George Robbins whose resume is
9 attached hereto as **Exhibit 1** and John Thompson whose resume is attached
10 hereto as **Exhibit 2**.

11 **Section 2. Effective Date.** This resolution shall become
12 effective upon signature by the Mayor or upon becoming effective
13 without the Mayor's signature.

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15 Form Approved:

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17 /s/ *Margaret M. Sidman*

18 Office of General Counsel

19 Legislation Prepared By: Margaret M. Sidman

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1 Introduced by Council Member Schellenberg:
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3 **RESOLUTION 2014-769**

4 A RESOLUTION REAFFIRMING AND REAUTHORIZING THE
5 GENERAL COUNSEL AND THE OFFICE OF GENERAL
6 COUNSEL TO COMMENCE LITIGATION TO DETERMINE
7 THE LEGAL VALIDITY OF THE ESTABLISHMENT OF THE
8 POLICE AND FIRE PENSION FUND SENIOR STAFF
9 VOLUNTARY RETIREMENT PLAN AND TO DETERMINE
10 WHETHER MEMBERS OF THE BOARD OF TRUSTEES OF
11 THE POLICE AND FIRE PENSION FUND MISMANAGED OR
12 TOOK UNAUTHORIZED ACTIONS IN CREATING AND
13 ADMINISTERING THE SENIOR STAFF VOLUNTARY
14 RETIREMENT PLAN; PROVIDING AN EFFECTIVE DATE.
15

16 **WHEREAS**, Article 22 (Jacksonville Police and Fire Pension
17 Board of Trustees) of the Charter establishes the Police and Fire
18 Pension Fund Board of Trustees (the "Trustees") to administer the
19 Police and Fire Pension Fund ("PFPPF"); and

20 **WHEREAS**, the plain language of Article 22 does not provide the
21 Trustees with the ability to create a new trust for separately
22 identified employees to be funded by the City Council. Instead,
23 managing a trust is a limited authorization of power, and does not
24 carry with it the exercise of additional powers beyond that
25 necessary for managing the body of the trust; and

26 **WHEREAS**, on September 20, 2000, the Police and Fire Pension
27 Fund Board of Trustees established a separate pension plan for the
28 Administrator and Assistant Administrator of the Police and Fire
29 Pension Fund, named the Senior Staff Voluntary Retirement Plan
30 ("SSVRP"); and

1 **WHEREAS**, the language in the SSVRP provided that other
2 individuals could be added to the plan and in 2004, a third
3 individual was approved to join the plan upon becoming employed by
4 the PFPF; and

5 **WHEREAS**, it was not until spring 2012 that the SSVRP was noted
6 in the review of documentation by the Council Auditor's Office in
7 their audit of the PFPF; and

8 **WHEREAS**, the legality of the SSVRP was called into question in
9 the summer of 2012, and as a result, the Office of General Counsel
10 provided an opinion in August 2012 that the SSVRP was not created
11 legally and was not authorized; and

12 **WHEREAS**, in the fall of 2012, the Council authorized the
13 Office of General Counsel to commence litigation to determine the
14 legal validity of the establishment of the PFPF through 2012-624-A;
15 and

16 **WHEREAS**, in February 2013, a suit was filed against the City
17 styled *Randall Wyse, et al, vs. City of Jacksonville, et al*, Case
18 No. 3:13-cv-121-J-34MCR, to determine whether the PFPF Board is the
19 appropriate entity to negotiate for police and fire pension
20 benefits; and

21 **WHEREAS**, in its answer to the suit the City has offered as an
22 affirmative defense to that action that PFPF breached its fiduciary
23 duty in establishing a separate retirement system for the Executive
24 Director and funding such system out of trust funds; and

25 **WHEREAS**, on May 7, 2013, Carla Miller, as Director of the
26 Ethics Office, recommended by letter to the General Counsel that
27 the validity of the SSVRP and the questions concerning special
28 financial benefits paid to members of the SSVRP be handled
29 separately and not commingled with the legal issues in the *Wyse*
30 litigation, fearing that global settlement would seemingly "condone
31 potentially illegal and/or corrupt actions"; and

1 **WHEREAS**, in July 2013, the Council Auditor's Office released
2 its Audit of the Police and Fire Pension Fund- #736, dated November
3 12, 2012, in which the Council Auditor's recommended that financial
4 and legal issues be addressed by the appropriate parties and that
5 the reporting requirements and representation be corrected going
6 forward; and

7 **WHEREAS**, since the discovery of the SSVRP, additional facts
8 surrounding its creation and administration have been uncovered,
9 and questions have been raised as to whether the Trustees have met
10 their fiduciary obligations to the PFPF and whether the Trustees
11 acted *ultra vires* in the creation and administration of the SSVRP;
12 and

13 **WHEREAS**, under Article 22, the City is empowered to select two
14 of the five members of the Trustees, and so may exercise its
15 discretion to remove its two representatives, but is limited in the
16 action it can take against the other Trustees delegates in the
17 event that the Trustees have not fulfilled their duties or have
18 exceeded their authority; and

19 **WHEREAS**, it is Council's belief that these questions of law
20 are decided appropriately through the court process, through the
21 commencement of a legal proceeding by the City, which is specific
22 to these questions and apart from any other pending litigation
23 between the parties; now therefore

24 **BE IT RESOLVED** by the Council of the City of Jacksonville:

25 **Section 1. General Counsel Directed to Commence**
26 **Litigation.** The Council of the City of Jacksonville hereby
27 reaffirms its action taken as Resolution 2012-624-A and directs the
28 General Counsel and the Office of General Counsel to commence
29 litigation, through the appellate process, to determine the legal
30 validity of the establishment of the Police and Fire Pension Fund
31 Senior Staff Voluntary Retirement Plan. The Council of the City of

1 Jacksonville also directs the General Counsel and the Office of
2 General Counsel to investigate whether claims against the Police
3 and Fire Pension Fund Board of Trustees are appropriate for
4 mismanagement and/or unauthorized actions by the Police and Fire
5 Pension Fund Board of Trustees concerning the Senior Staff
6 Voluntary Retirement Plan and further authorizes the General
7 Counsel and the Office of the General Counsel to include such
8 claims, if appropriate, in the litigation.

9 **Section 2. Effective Date.** This Resolution shall become
10 effective upon signature by the Mayor or upon becoming effective
11 without the Mayor's signature.

12 Form Approved:

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14 /s/ Paige Hobbs Johnston

15 Office of General Counsel

16 Legislation Prepared By: Paige Hobbs Johnston

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1 Introduced by Council Member Crescimbeni & Co-sponsored by Council
2 Members Yarborough & Bishop:

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4 **RESOLUTION 2015-83**

5 A RESOLUTION URGING GOVERNOR RICK SCOTT TO
6 DIRECT THE CHIEF INSPECTOR GENERAL AND THE
7 FDLE TO PROVIDE AN AUDIT, INVESTIGATION AND
8 REVIEW OF THE JACKSONVILLE POLICE AND FIRE
9 PENSION FUND SENIOR PENSION PLAN; DIRECTING
10 THE COUNCIL LEGISLATIVE SERVICES DIVISION TO
11 PROVIDE A COPY OF THIS RESOLUTION TO THE
12 GOVERNOR OF FLORIDA, PRESIDENT OF THE FLORIDA
13 SENATE, SPEAKER OF THE FLORIDA HOUSE AND
14 MEMBERS OF THE DUVAL LEGISLATIVE DELEGATION;
15 PROVIDING AN EFFECTIVE DATE.
16

17 **WHEREAS**, the Jacksonville City Council Auditor's Office
18 performed a limited audit on the Police and Fire Pension Fund,
19 Audit #736, a copy of which is attached hereto as **Exhibit 1**; and

20 **WHEREAS**, the City Council Auditor's Office found significant
21 issues concerning the application and effective retirement date for
22 Deferred Retirement Option Plan ("DROP") members which is utilized
23 to determine the length of DROP eligibility; and

24 **WHEREAS**, the City Council Auditor's Office found significant
25 issues concerning the compensation amount which is used to
26 calculate the cost of time service connections for members; and

27 **WHEREAS**, on December 10, 2014, Representative Janet Adkins,
28 Chair of the Duval Delegation, requested Governor Rick Scott direct
29 the Chief Inspector General and FDLE to investigate the Police and
30 Fire Pension Fund and its application of funds to the Senior
31 Pension Plan and allowing retirees to enter the DROP plan early;

1 now therefore

2 **BE IT RESOLVED** by the Council of the City of Jacksonville:

3 **Section 1. Urging Governor Rick Scott to take action.** The
4 City of Jacksonville hereby supports Representative Adkins' request
5 and joins in the action urging Governor Rick Scott to direct the
6 Chief Inspector General and the FDLE to provide an audit,
7 investigation and review of the Jacksonville Police and Fire
8 Pension Fund.

9 **Section 2. Direction to Circulate.** The City Council
10 Legislative Services Division is hereby directed to provide a copy
11 of this resolution to the Governor of Florida, President of the
12 Florida Senate, Speaker of the Florida House and members of the
13 Duval Legislative Delegation.

14 **Section 3. Effective Date.** This Resolution shall become
15 effective upon signature by the Mayor or upon becoming effective
16 without the Mayor's signature.

17 Form Approved:

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19 /s/ Margaret M. Sidman

20 Office of General Counsel

21 Legislation Prepared By: Margaret M. Sidman

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