

**Speech to Retirement Reform Task Force, 11/5/13, by Curtis Lee (outline)**

PFPF = Jacksonville Police & Fire Pension Fund;	BOT = PFPF Board of Trustees
PFPP = Jacksonville Police & Fire Pension Plan	FS = Florida Statutes
ARR = actuarial assumed rate of return	FTU = Florida Times Union
COJ = City of Jacksonville	SS = Social Security
UAAL = Unfunded Actuarial Accrued Liability	JFRD = Jacksonville Fire & Rescue Dep't
JSO = Jacksonville Sheriff's Office	FRS = Florida Retirement System
DBP = defined benefit plan	DCP = defined contribution plan
FOP = Fraternal Order of Police, Lodge 5 – 30, labor union that represents most JSO employees	
JAFF = Jacksonville Ass'n of Firefighters, part of IAFF, labor union that represents most JFRD employees.	

**Who am I and why am I here?** (see pg.6) I'm here to talk about the 99% of COJ residents who do not get PFPF pensions, but are being asked to pay more for them, and why and how they should come first.

**I. Background, Major Problems**

- 2 major decisions were made in or around 1937 that now cause the COJ serious problems – the PFPP was established, and the COJ decided to not participate in SS.
  - Due to the age of the PFPP and PFPF, they are grandfathered re: FS 175 and 185. They are “deemed to comply” even if they fail to meet statutory benefit minimums. (Conclusion of James Linn, Esq.)
  - Thus they need not meet the 2% per annum accrual rate and 60% salary replacement at 30 years (age 52) minimums in those statutes, which leads to this question – should those minimums (or more) still be met by COJ?
  - The broad problems the COJ faces, re: PFPF pensions, for JSO and JFRD employees, are several. I will generally not elaborate where others have already disclosed relevant statistics and facts.
- (1) **The biggest problem by far is that Americans live longer than they did in 1937 or 1960 or 2000,** and the trend is likely to continue, especially given that many comparable countries have average life expectancies that exceed those of Americans, by 2 years or more. Life expectancy increases have been the bane of all DBP's, and have been a major reason why private industry by and large no longer uses DBP's.
- (2) Plus, America is less economically dominant than it used to be, and economic conditions change rapidly now. This means that America cannot make 70 year promises anymore – yes, the PFPP currently represents up to a 70 year promise. Plus, investment returns are uncertain. The DBP model – the PFPP model – makes no sense anymore, assuming it ever did. (It never did.)

- (3) Plus, more JSO work is white collar in nature and requires more training. And many older employees are in management, thus vitiating the "they have to retire young" justification for high pensions. Also remember that employers having other jobs that may be hard to perform at age 65 or 70 do not, thereby, "overpension" their work forces.
- (4) Further, JSO and JFRD turnover stats are low, compared to much of private industry, suggesting that compensation and benefits are too high.
- (5) Lavish DBP's like the PFP are management problems – they encourage deadwood to stay on.
- (6) The old justifications for early retirements by and special policy re JSO and JFRD employees is weaker. Plus, claims of lesser life expectancy are unproven – indeed, some other jobs (underground mining, driving cabs) appear to be more hazardous. (Perhaps the Task Force should look into this. If public safety employees have approx. the same life expectancies as everyone else, why should they have hugely better and earlier, lengthier pensions?)
- (7) Plus, the union mantra – give us pensions to cover all our retirement needs – is stone cold dead in corporate America, and is dying at the federal level. Indeed, SS never was intended to be the sole source of retiree support – why should JSO and JFRD employees be different?
- (8) Most taxpayers feel no obligation to overcompensate public safety employees. Everyone who knows the core facts re the PFP – the average retirement starts at age 49 (historical data, last 10 years) and the average pension now exceeds \$53,000/yr., is shocked and dismayed.
- (9) If future investment returns prove to be lower, FL and FRS pension policy must follow "downward". In other words, the argument that "we must compete with FRS", although it holds some appeal today, is not a long term argument, as FRS benefits are likely to be reduced. Such reductions are the long term trend throughout America. The wisest states and municipalities have eliminated DBP's for newly hired public employees.
- (10) The JSO overpends, is insular, and has not had an outside audit in years. A tough management audit is badly needed. JSO staffing is the biggest driver of future PFP pension costs. My prediction – that staffing (which has generally increased over the last decade) will flatten out or perhaps decline.
- (11) The fact that JSO employment has increased (10 year trend) whilst crime has mostly declined in recent years, further supports this conclusion. Plus, population growth is slowing, and Americans currently are having children at less than replacement levels.
- (12) If I am right, and I think I am, future JSO staffing trends will be good news for COJ and its taxpayers, respecting pension policy. So, in short, don't panic, or act foolishly, because the PFP has inflated its UAL by cutting its ARR. Things are very bad, but not as bad as some think.

## II. What is the UAAL, and what are its implications?

You all have heard about the UAAL. But never forget that the UAAL is only a quasi – liability. It is not debt in the traditional sense. Far from it. The UAAL can be hugely reduced or even eliminated by virtue of policy and assumption changes, such as changes to the ARR, major layoffs and benefits changes, etc. Because of its unique nature, the COJ should not obsess about eliminating the UAAL – events may help out. Plus, if the PFPF ever became fully funded again, the unions will demand even richer pensions. They sought and got hugely better pensions in the late 1990's after 2 decades of bull markets. They will try this again, if ever the money is there (i.e., in the PFPF). Mark my words.

The logical conclusion? Don't tempt union leaders and politicians by providing extra funds to any DBP, such as the PFPF. PFPF officials have repeatedly expressed interest in increasing benefits, even these last 4 years. If any city wants to weaken or decertify its public employee unions, which are good objectives, it is wise not to over-contribute to a DBP, especially one as corrupt and badly run as the PFPF. This conclusion – which means no pension obligation bonds (unless major concessions are given), and no dedicated millage ever – is further supported by points raised in III below.

It is wiser to reduce the PFPF's UAAL by means of policy changes, such as increasing the ARR to the 7.75% used by the FRS and by the average FL pension plan, by cutting the JSO and JFRD budgets going forward, and by cutting benefits for new hires, and by cutting future accruals for current employees. Also, the COJ can impose pension benefit changes respecting non-union members of the PFPF. These non-union employees could get lesser or no future pension benefits, starting now. This would save \$, and provide a template for later use with labor unions. It would also show unions how serious the COJ is. Many corporate plans offer differing benefits to different classes of employees, and companies have often cut benefits of salaried employees as a precursor to collective bargaining.

## III. Further reasons to be careful and hard-nosed.

- (1)The PFPF is badly run and unaccountable, due to its structure. The attachment provides details.
- (2)The PFPF has never had a forensic audit, and otherwise audits of the PFPF have been too limited, and too few and far between.
- (3) The PFPF and COJ made huge mistakes mainly in the 1996 – 2002 period, which are now harming COJ taxpayers. The sources of those mistakes – the ineptitude of COJ leaders, and their desire to please public employees – have not disappeared. Expect more ineptitude and misconduct.
- (4)The COJ has few special advantages. Unlike NY and a handful of cities, it is not an international beacon, and cannot afford to continue to offer gold – plated benefits for public employees.
- (5) Unemployment is high, and it appears that police and fire jobs have backlogs of applicants and interest. I greatly doubt the “we need to pay rich pensions to attract officers” argument. Most 22 year olds do not plan that far ahead. I can remember when I was in my early 20's – pension benefits were then of no interest to me. In short, the employer, the COJ, has great unused power.

IV. Key facts relating to PFPF and COJ pension policy

- (1) Historically, JSO and JFRD employees have retired at age 49. This is unheard of in the private sector, unsustainable, and very foolish.
- (2) Thus, JSO & JFRD employees get PFPF benefits for longer periods than they worked, on average.
- (3) Further, those employees get far more from the PFPF than they earned via salary.
- (4) The current average PFPF retiree pension is over \$53,000/yr., and in 2014 will be about \$55,000, thanks to the 3% COLA. (Note – the PFPF often quotes a lower figure, but that is deceptive, as the PFPF factors in spouses' benefits, children's benefits, and disability benefits, in determining averages. Those are ancillary to base benefits, and lower.)
- (5) Yet the COJ has a moderate cost of living, and the average COJ resident, and household, earns less than the average JSO and JFRD retiree, nor does such average resident have a 3% COLA.
- (6) Thus, the status quo operates as a major transfer of wealth to the privileged few, via taxes.
- (7) This is untenable, unjust and perhaps unique. The handful of places with more generous public pension schemes tend to be high – wage and high – cost of living cities, where high pensions are matched with high average salaries.
- (8) Plus, the PFPF's COLA, coupled with the "Rule of 72", means that most PFPF retirees will have pensions that are more than twice their initial pensions, before they die. This means that the average new PFPF retiree will receive over \$2 million from the PFPF.
- (9) The COJ currently contributes over 85% of PFPF costs (yet lacks control of it). Similar perverse statistics will continue for years, barring major reform.
- (10) In contrast to the PFPF average retiree pension of \$55,000/yr. in 2014, the average SS benefit in 2014 will be \$15,492/yr. And, young Americans do not get full SS until age 67, plus no one collects SS prior to age 62 (unless they are disabled).
- (11) When SS was reformed in or about 1983, current workers were affected. Let this be a lesson for the COJ.
- (12) Given all the above statistics, the average PFPF member collects about 3 ½ times as much as the average American via SS, and for twice as long. 7 times the benefit, or more if one factors in time value of money.
- (13) Thus, the injustice of the status quo is unacceptable, financially and morally. I say it is morally unacceptable, as statistics such as those above lead many in the taxpaying public to deem local government a racket, or the enemy.
- (14) Therefore, the JCC and COJ approaches both are inadequate and unjust, and will lead to continued unhappiness on the part of the 99% of COJ residents who are hurt by the status quo.

**V. Key precepts and broad recommendations in the pension reform process**

- (1) Because COJ taxpayers can vote with their feet, and because COJ has numerous problems, such as foreclosures, empty houses, poor schools, high crime, etc., the COJ must put taxpayers first.
- (2) Current COJ residents and taxpayers are not necessarily the same people as those who got the benefit of lower taxes in the past. Morally, current taxpayers should not suffer, nor be blamed.
- (3) PFPF members should be put into SS going forward, and PFPF benefits cut accordingly going forward. SS has a much lower and steady cost, and a more sensible plan design. And, it better unites taxpayers and public employees. It dampens "us" vs. "them" feelings.
- (4) Either way, PFPF benefits should be brought much closer to SS design, which means as follows:
  - (a) Employees should not be able to collect pensions before age 62, unless disabled.
  - (b) Annual pensions should be capped - I suggest \$50,000/yr. This is almost twice the SS maximum
  - (c) Serious consideration should be given to the idea of switching to a DCP approach, and/or a hybrid DCP/DBP approach. Most private employers do not currently use DBP's.
  - (d) Don't use DROP's, ever. In my 17 years of corporate pension work I never heard of a corporate DROP. Plus, the DROP encourages early retirement, which the PFPF formula also does.
  - (e) Do not do any 17 year deal. This is unfair, unwise, and illegal. Collective bargaining agreements cannot exceed 3 years in duration, under FL law.
  - (f) Have current employees share in benefit reductions. First, they have no legal right to continued status quo benefits "come what may". 2nd, hundreds of private employers have done this – it is common practice. 3rd, if employees don't like it, they can try to get other jobs, and then they will see that even their reduced benefits are still very generous. 4th, current employees benefited from past largesse, and COJ taxpayers just suffered from a 14 % property tax increase. Current employees should likewise share the pain. Their pensions will, still, be very generous.

**VI. The PFPF must undergo Structural reforms**

- We have a PFPF, and a PFPF, both administered by the PFPF BOT
- There is no reason this must be the case. Pension plans and funds are often administered jointly. Reasons – economies of scale and need for managerial expertise.
- Because the PFPF is, in fact, run by labor union interests (see attachment), there has been an inherent conflict of interest, which should be eliminated.
- Plus, thanks to multimillion \$ inferior returns, numerous adjudicated and other violations of law and breaches of duty, and massive ineptitude and self - dealing, the PFPF BOT and PFPF leadership have forfeited their rights to further existence as such, and further employment.
- Given the sums involved, and for the retirement security of JFRD and JSO employees, the COJ should make it its first priority to accomplish these ends.
- I suggest seeking legislation to terminate the PFPF BOT, and have the Jacksonville Retirement System (JRS) administer the PFPF and PFPF. The JRS has been far more ethical, and has had materially higher investments returns at lower cost, than the PFPF has had.

**VII. Thoughts re legal matters, etc., concluding remarks**

- The lawsuit filed by Frank Denton, editor of the FTU, has a strong chance of destroying the enforceability of the 30 year agreement.
- The 30 year agreement, because it is an agreement, can be modified by agreement.
- Do not issue a pension obligation bond, enact any “permanent fix”, or contribute extra \$ to the PFPF, without requiring as a quid pro quo from the PFPF BOT, either the termination of, or major modifications to, the 30 year agreement. Plus demand that the City obtain permanent control of the PFPF, and the power to have its assets managed by JRS.
- In corporate America, it is common that owners and managers of failed entities (the PFPF is a failed entity) give up control and are fired, in return for infusions of new \$
- This is in short a moment of COJ leverage, and should not be wasted. Don’t pay extra \$ without major and permanent structural and governance reforms.
- **Never, ever, ever adopt a millage dedicated to the PFPF.** Why should those who just suffered a 14% increase in property tax rates, suffer further, because the PFPF is corrupt and inept? Plus, dedicated millages and indeed any dedicated taxes are, per my belief, very hard to undo. Why should a handful of people (PFPF officials) have a permanent revenue source, when they have already shown their ineptitude, misconduct, and lack of accountability?

*Please, as part of your deliberations, read and take into account the attached 5 page outline re: the misconduct, including violations of law and multimillion \$ waste, committed by PFPF officials.*

**LASTLY – I REQUEST THAT THIS BODY REQUEST A FORENSIC AUDIT OF THE PFPF, AND/OR ASK APPROPRIATE AUTHORITIES TO CONDUCT AN INVESTIGATION INTO PFPF MISCONDUCT.** (Consider this – if I could dig up all the dirt listed on the attachment, just via the Public Records Act, plus relevant expertise, but without audit or subpoena power, or the power to compel testimony, or investigative personnel and budget, does not it stand to reason that there is much more PFPF dirt that I did not find?)

Outline and speech prepared by Curtis Lee, retired attorney (J.D., New York University School of Law, 1980), former manager of a pension fund (which had over \$500 million in assets when I left that job), former finance manager, etc., and VP Concerned Taxpayers of Duval Co.

I began work re: pension plans and funds (legal, administrative, and investment work) in 1981. I have spent over 1,000 hours and substantial personal funds, over the last 4 years, researching and critiquing the PFPF, as a volunteer. I have not been hired by anyone to do these things – I am 100% independent. Further, I complained about the PFPF and warned COJ about it, since late 2009. My writings have been prescient.

In short, I know more about the PFPF than anyone who is not an employee or official thereof.

**Outline, PFPF – related misconduct (prepared by Curtis Lee, 11/5/13)**

**PFPF = Jacksonville Police & Fire Pension Fund; BOT = Board of Trustees of PFPF**

**COJ = City of Jacksonville; CTDC = Concerned Taxpayers of Duval County, Inc.**

**KKJL = Klausner, Kaufman, Jensen & Levinson (formerly, Klausner & Kaufman) long time PFPF counsel;**

**FOP = Fraternal Order of Police, JAFF = Jacksonville Ass'n of Firefighters, part of IAFF**

**(1) Joseph Kicklighter vs. BOT, PFPF**

- Mr. Kicklighter, COJ fireman, was disabled in 2006 and sought a disability pension from the PFPF. John Keane, Exec. Director & Administrator of the PFPF, with concurrence of the BOT and KKJL, caused delays resulting in the reduction of Mr. Kicklighter's pension by about \$450/mo.
- Mr. Keane has been Executive Director and Administrator of the PFPF for more than 20 years, and KKJL has been counsel for the PFPF for more than 20 years.
- Mr. Kicklighter sued. The trial court ruled that the PFPF breached its fiduciary duties to him and violated its own rules, and that Mr. Kicklighter should get his full pension. Also, that his lawyer (Tad Delagal) should get fee recovery. This was upheld on appeal.
- Mr. Delagal was awarded \$99,000 in trial level fees, and \$106,000 was paid by the PFPF. (The latter figure includes interest.) Mr. Delagal and appellate counsel together were also awarded \$53,000 in appellate level fees. (The PFPF appealed same and lost.)
- The PFPF also paid close to \$200,000 to KKJL over the years, re: this lawsuit.
- Thus, the total waste here by the PFPF is about \$350,000.
- The PFPF had contended that Mr. Kicklighter had no contractual rights, which is an unsettling position for pension fund "fiduciaries" to take.
- If the PFPF had succeeded, even partly, no one would sue the PFPF for denying benefits to members, even those with good cases. Mr. Keane would have carte blanche.
- Further, the same effect may occur due to the PFPF's delays and scorched earth tactics, which tend to dissuade attorneys from representing pensioners on a contingency basis.
- In short, the PFPF position never made economic sense.

**(2) Senior Staff Voluntary Retirement Plan (SSVRP) (a pension within a pension)**

- Highly generous – Mr. Keane, the widow of Dick Cohee (former Asst. Exec. Dir. of the PFPF), and 1 other former PFPF employee are covered. Mr. Keane is the biggest beneficiary. His special (SSVRP) pension has a present value of about \$2 million.
- The SSVRP has an unheard of formula - 3% annual accrual rate, uncapped.
- The SSVRP will provide Mr. Keane a pension of about \$200,000/yr., atop his current PFPF pension (about \$63,000/yr.).
- The PFPF has thus created a PFPF liability of about \$4 million, re: the SSVRP, and has transferred PFPF assets to fund it. I.e., the \$4 million of PFPF assets were moved out of the general corpus of the PFPF and put into a restricted account, just for 3 SSVRP members. This is doubly shameful in light of the severe underfunding of the PFPF.
- 2 persons are now in pay status. Mr. Keane will soon collect also, if no one stops him.

- The COJ (via its Office of General Counsel), and the COJ Ethics Officer, deemed the SSVRP illegal, and asked the PFPF to recover funds already paid, cease further payments to beneficiaries, & cease further funding of the SSVRP out of PFPF assets. The PFPF was defiant. COJ deemed this a breach of fiduciary duty and ultra vires, in papers filed in federal court. (The federal court suit is still pending, and the City has been willing to drop these contentions in an effort to settle other issues.)
- The SSVRP is abusive given the PFPF's wretched funded ratio – about 39%. (Bottom 1 percentile.) I.e., the PFPF "steals" from active employees, whose benefits are in essence unfunded, to assure that Keane gets \$ millions.
- The COJ City Council Auditor issued its audit report, in July 2013, which was highly critical of the PFPF on this issue. This audit was limited and non-forensic.

(3) Curtis Lee vs. BOT, PFPF, filed 2010 (2010 – CA – 000667, Duval Co., Cir. Ct.)

- Initial dispute: over PFPF demand for \$326.40 in 2009, in order for Mr. Lee to review public records. This, plus add-on demands, e.g. that Mr. Lee sign an open-ended promise to pay for secretarial time to make copies (akin to a blank check), and that he also pay \$280 in advance for a watcher to watch him review public records, forced him to sue in order to get records, deter further misconduct, and stop this retaliation for his political beliefs (e.g., that the PFPF is badly run, that Mr. Keane should be fired, etc.)
- After Mr. Lee filed the lawsuit, the PFPF made further financial demands, and wasted funds thinking that it would recover its KKJL fees from Mr. Lee.
- The trial Court ruled that the PFPF violated the Public Records Act (PRA) twice, but denied Lee fee recovery. These rulings were appealed by both sides. The Appeals Court reversed the ruling denying legal fees to Mr. Lee, and affirmed the ruling that the PFPF violated the PRA twice.
- The PFPF has sought FL Supreme Court review. No decision has been announced yet.
- The PFPF spent about \$300,000 in fees, and will have wasted over \$350,000, once a fee award to Mr. Lee occurs. (He has not yet completed all needed paperwork, but expects to do so before the end of November, and plans to request over \$70,000.)
- Why the waste, given that the PFPF never had any upside? Answer – Mr. Keane wanted to "teach Mr. Lee a lesson", and used taxpayer funds to express his personal animus.
- Similarly – Mr. Kicklighter had challenged Mr. Keane, and thus had to be punished.
- Obvious breach of fiduciary duties here, by Mr. Keane, KKJL lawyers, and BOT.

(4) Lee and CTDC vs. PFPF and COJ, filed 2011 (2011 – CA – 004348, Duval Co., Cir. Ct.)

- Issue – illegal collective bargaining between COJ & PFPF, violating Labor & Sunshine Law.
- The PFPF collectively bargained on behalf of the FOP and JAFF, in secret, which is illegal. This occurred in the past, and in 2010- 11, with the later secret bargaining leading to failed City ordinance 2011 – 400.
- The plaintiffs have requested a trial date. Some depositions were taken.
- The PFPF colluded with unions here and in the federal court case – see (11) below.



- The PFPF has likely spent over \$100,000 in legal fees and costs re: this case.
  - Violations of law by the PFPF and others were exacerbated in 2013 – see (11) below.
- (5) Litigation generally - only profiteer is KKJL; which received and will receive about \$700,000, or more, from PFPF in recent years, re: losing/foolish cases, defending unlawful acts.
- Why has Mr. Keane paid so much to KKJL on uneconomic and wasteful litigation? Robert Klausner, lead partner at KKJL, has been General Counsel of PFPF for over 20 yrs, and before that was an attorney for the FOP in Jacksonville. Mr. Keane has run the PFPF for over 20 yrs.
  - KKJL advised the PFPF to violate the law. Why - to profit via litigation (the Kicklighter & Lee cases). KKJL profits by and preys on Mr. Keane's bad judgment, inability to control his emotions, and desire to use taxpayer funds to achieve his objectives – to support public employee unions, and get even with those he dislikes/who oppose his agenda.
  - KKJL (or at least Mr. Klausner) has fiduciary duties under the law, and violated them.
- (6) Peter Sleiman was a PFPF trustee for over 20 years, until 2012. Mr. Lee complained about him in 2010. The FL Ethics Commission investigated and found (in 2012) that Mr. Sleiman had violated financial disclosure laws for 5 years. Mr. Sleiman was fined. (In fact, the PFPF paid KKJL over \$20,000 to defend Mr. Sleiman. Another fiduciary violation? Plus, Mr. Keane publicly pooh - poohed the violations. ) Mr. Sleiman also violated residency laws applicable to PFPF trustees, from 2006 - 12. Mr. Keane and PFPF trustees Deal, Glover and Tuten knew about these violations of the law, yet did nothing. The state Attorney did nothing either. Plus, Mr. Sleiman had a substantial local real estate business, and the PFPF invests in local real estate. Any illicit deals?
- (7) PFPF officials have received free travel etc., but did not properly disclose same. Lee filed ethics complaints in July, 2013. No results yet.
- (8) Barbara Jaffe was PFPF trustee for over 20 years, through 2012. She was also a financial advisor at Morgan Stanley Dean Witter (MSDW). Despite Mr. Lee's demands, she and MSDW refused to disclose anything re: the \$ she and MSDW made by using Ms. Jaffe's position as PFPF trustee to obtain PFPF members as MSDW clients.
- (9) Richard Cannon, Jacksonville Sheriff's Office (JSO) police officer, was convicted of child molestation and sentenced to 30 years in prison. Yet the PFPF BOT voted 3 – 1 on 12/10/12 to award him a pension that will total about \$2 million over those 30 years. Not only was this disgusting, and a waste of taxpayer funds not dictated by the law – but there were procedural flaws also. (Mr. Keane publicized the meeting at short notice, there was no public advance agenda, and yet favored attendees were invited and attended. And KKJL initially told the Court Reporter not to provide a transcript to Mr. Lee despite his willingness to buy it.) Plus, Mr. Cannon had been accused and investigated re: abusing another girl about 16 years ago, yet the JSO did not fire him.

(10) Non-litigation PFPF costs are excessive and improper also:

- The PFPF has in recent years spent over \$8 million/yr., or about 70 basis points/yr., on investment manager fees and other costs. This is almost twice the norm for pension funds of similar size. Mr. Lee knows this from public fund surveys, personal experience managing a pension fund, and other comparative data (e.g., Tampa's P&F pension fund). John Keane, PFPF CEO, has a base salary of about \$291,000/yr. This greatly exceeds FL norms. Plus, he gets 6 weeks' paid vacation, received a \$163,400 accrual of unused leave and vacation time payout in Dec 2012 (a matter that was concealed), has a \$44,000 car paid for by the PFPF, for personal use, and uses a PFPF staffer as a driver. Plus, Mr. Keane's annual SSVRP accrual is, now, worth close to his annual base salary. In toto, Mr. Keane's compensation package is close to \$500,000/yr.
- Mr. Keane has contractual employment rights until 12/31/17, granted by the PFPF BOT in 2009. If he were fired "without cause", he likely would demand, & perhaps be able to get, over \$1 million from the severely underfunded PFPF. (More breaches of fiduciary duty, by PFPF trustees.) This was no doubt Mr. Keane's intent.
- Yet Mr. Keane's education is inadequate. (See [www.colinet.com](http://www.colinet.com) for his resume.) Mr. Keane and PFPF trustees also have junketed extensively, sometimes using PFPF funds, and sometimes via receipt of free travel etc.
- Mr. Keane and one PFPF trustee have done business together, which perverts the independence of both.
- The PFPF "mistakenly" overpaid a widow of a former Keane colleague, in the amount of about \$128,000, a matter that only the City Council Auditor discovered. Then the PFPF settled for repayment of about \$61,000, over 17 years. (Other pension funds have not been so "kind", or so profligate, with pension assets.)

(11) Federal court litigation, resulting Retirement Reform agreements.

- R. Wyse (JAFF president) and 3 other public employees sued the COJ & PFPF in Fed. Ct. seeking, inter alia, a declaratory judgment that the City must negotiate pension benefits with the PFPF, not the labor unions. (Wyse et al v. COJ & PFPF. Fed. Ct. Middle District FL, Jacksonville Div., case # 3:13-CV-121-J-34MCR.)
- The COJ and PFPF filed answers and asserted affirmative defenses. The PFPF's docs clearly show that it supported the plaintiffs despite being a defendant.
- The COJ claimed that the PFPF breached its fiduciary duties by negotiating a 30 year agreement re: pension benefits etc., as agent for labor unions (e.g., in 2010 - 11), collaborating with plaintiffs in said case (Wyse is the president of the JAFF), establishing the SSVRP and funding it out of PFPF funds, wasting funds, failing to order forfeiture of benefits (i.e., the Cannon matter), junketing, and acting ultra vires.
- Thereafter, all parties colluded to violate the spirit of Federal Rule 19, etc., and "join" the FOP and JAFF, which were not named parties to such lawsuit.

- In short, the mediation, and the process, were ruses (frauds) perpetrated by the City, the PFPF, Wyse et al, & the unions, so as to engage in secret, illegal collective bargaining
- On 5/8/13, the COJ, the PFPF, and the JAFF and FOP presidents announced that the secret mediations that occurred in Gainesville from March – May 2013 had yielded a settlement not only of that litigation, but also had made decisions re: Retirement Reform and modified pension benefits – i.e., those of current and future employees of the COJ (its Fire and Rescue Dep’t – “JFRD”) and the JSO.
- The COJ contends that Sunshine Law provisions are trumped by federal (and FL) mediation rules which permit confidentiality.
- The COJ, the PFPF and the union presidents planned this ruse (fraud) prior to the filing of the lawsuit on 2/4/13. Documents re COJ proposed ordinance 2013 – 119, the PFPF’s January 2013 legal billing records, etc. prove this.
- The COJ (Mayor’s office) introduced proposed ordinance 2013 – 366 to codify the “Retirement Reform” (mediation) deals. The City Council defeated it.
- Frank Denton, editor of the FL Times Union, sued on 6/6/13 to void the Retirement Reform Agreement, etc., and thus supports the objectives behind 2011 – CA – 004348.
- The City & PFPF moved to dismiss and lost. 2 depositions occurred; more are planned.
- Mr. Denton has filed a notice of intent to seek an injunction.
- Mr. Denton has moved for summary judgment.
- The COJ and PFPF seek summary judgment too.
- Mr. Denton is seeking to cause federal court to determine that it lacks subject matter jurisdiction. (In effect, that the COJ and PFPF deceived federal court.)

(12) The PFPF has repeatedly tampered with its assumed rate of return to achieve ancillary ends – in effect, to extort concessions from the COJ, for the benefit of the PFPF and Mr. Keane personally. (i.e., to cause the City to endorse the illegal SSVRP.) The PFPF has thus taken advantage of its ability to cause City costs and taxes to increase. Yet FL law requires that actuarial assumptions be reasonable, and honest actuaries do not tolerate such rapid changes in assumptions. (Call for details.)

**NOTES** Certain additional acts of misconduct, violations of the law, and breaches of fiduciary duty, by the PFPF and its officials, are not listed herein. This should not be construed to mean that they are any less egregious.

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