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NO. LTC # **186-2012**

## LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Kathie G. Brooks, Interim City Manager

DATE: July 17, 2012

SUBJECT: Fiscal Impacts of 2010 Adjustments and Changes to the Pension Fund for Firefighters and Police Officers

This Letter to the Commission (LTC) is to provide you with an overview of the fiscal impacts resulting from the adjustments and changes to the Pension Fund for Firefighters and Police Officers (Fire and Police Pension Plan) that were negotiated with the International Association of Fire Fighters (IAFF) and the Fraternal Order of Police (FOP) in 2010 and are part of the current collective bargaining agreements. The pension changes were implemented by Ordinance No. 2010-3705, which took effect on November 27, 2010. However, the Pension Board, based on the advice of its counsel, did not implement the changes.

As a reminder, these changes were collectively bargained between the IAFF, the FOP, and the City in 2010. During negotiations, the position of the IAFF and FOP was that any changes to the Fire and Police pension plan would need to go to a referendum vote. The City's position during negotiations was that a referendum vote was not required and the City did not agree to add language in the contracts that would require the referendum vote.

On June 27, 2012, the Third District Court of Appeal issued a unanimous decision that the collective bargaining process set out in the Public Employee Relations Act is the final word on implementing the collective bargaining rights guaranteed by the Florida Constitution and thus no referendum is nor would be required. A copy of the memorandum sent by City Attorney Jose Smith summarizing the decision is attached.

The City's current collective bargaining agreements with the IAFF and FOP provide for several pension adjustments and changes for current and future employees, including:

Deferred Retirement Option Plan (DROP) - The current DROP period is three (3) years. However, employees who enter the DROP on or after September 1, 2012, will be eligible to participate in the DROP for a period not to exceed five (5) years.

Employees who enter the DROP after September 1, 2012 will receive a zero percent (0%) cost of living adjustment for the third and fourth annual adjustment dates while in the DROP. If the employee leaves the DROP at any point after six (6) months they will still be subject to a zero percent (0%) COLA for the third and fourth annual adjustment dates. By not having a DROP COLA in the third and fourth years, the City's actuary estimated that there will be a substantial recurring savings in the City's Annual Required Contribution (ARC) towards the Fire and Police Pension Plan of approximately \$700,000

per year. The Pension Board actuary, Buck Consultants, later provided a similar estimate of approximately \$650,000; however, these savings would not be deducted from the ARC until the FY 2012-13 Valuation as they impact employees beginning September 1, 2012. In addition, the DROP COLA will be granted on the anniversary of the employee entering the DROP, as opposed to the current method of pro-rating it to occur on October 1<sup>st</sup> of each year. The retiree COLA will be earned/granted on that same anniversary date.

Additional Creditable Service - Currently, employees can purchase additional creditable service of up to two (2) years of full-time public safety service as a firefighter or a law enforcement officer prior to City employment, and up to an additional six percent (6%) multiplier on the additional creditable service years being purchased, upon completion of 20 years of creditable service with the City. Most police officers and firefighters take advantage of these two provisions. With the current collective bargaining agreements, any current or future employee who retires on or after September 30, 2010 can make these purchases upon completion of ten (10) years of creditable service (when the employee vests in the pension plan). Since most employees take advantage of these provisions, there is a benefit to the pension plan to change the eligibility for these buy-backs, as the pension plan will receive the funds earlier and thus be able to invest the funds sooner. It is anticipated that the investment earnings on the funds will be larger since the collection of the funds will be earlier. The City's actuary and the Fire and Police pension actuary estimated this change to have a small impact of approximately \$33,000 towards savings to the ARC, with a small recurring savings in future years.

Overtime Cap - The Fire and Police Pension Plan currently has provisions in place regarding how overtime is to be used in the calculation of a member's retirement benefits. The existing calculation is that overtime earned is added to the retirement benefit with a cap of "70% of the next highest rank".

Based on the ratified IAFF Agreement, the City and the IAFF have agreed to replace the "70% of the next highest rank" calculation with an alternative formula. For those employees covered under the IAFF bargaining unit, overtime for the purposes of calculating a member's retirement benefit shall not exceed eleven percent (11%) of their salary at the time of retirement.

Based on the terms and conditions of the ratified FOP Agreement, the overtime calculation for the purposes of calculating a member's retirement benefit remains unchanged (capped at 70% of the next highest rank).

In addition to the change in the overtime calculation for those members covered under the IAFF bargaining unit, employees will be able to reach the caps mentioned above (eleven (11%) for IAFF and 70% of the next highest rank for FOP) by using the following two (2) alternatives:

- Employees will be able to apply unused sick and/or vacation time for inclusion in the member's salary for pension purposes as follows: for each one hundred dollars (\$100) of unused sick and/or vacation time (at the member's hourly rate), ninety dollars (\$90) shall be applied toward the member's final average monthly salary and ten (\$10) shall be contributed to the pension fund. However, in no event will the value of unused sick and/or vacation time applied to a member's salary for pension purposes, when added to any overtime pay and/or off-duty pay, exceed the cap of eleven percent (11%) for members covered under the

IAFF bargaining unit and 70% of the next highest rank for members covered under the FOP bargaining unit. This should encourage members to not use sick and/or vacation time, which drives overtime costs for the City. As such, savings in overtime expenses are expected.

- Off-duty services will also be pensionable as another means to reach the cap of eleven percent (11%) for members covered under the IAFF bargaining unit and 70% of the next highest rank for members covered under the FOP bargaining unit. Currently, the pension plan receives no employee contribution for off-duty compensation, as it is not pensionable. Once it becomes pensionable, the employee will be required to make a ten percent (10%) pension contribution on all off-duty worked. This will provide additional revenue into the pension system for investment. However, in no event will the value of off-duty pay applied to a member's salary for pension purposes, when added to any overtime pay and/or unused sick and/or vacation, exceed the cap of eleven percent (11%) for members covered under the IAFF bargaining unit and 70% of the next highest rank for members covered under the FOP bargaining unit.

Based on current off-duty amounts paid, it is estimated that the inclusion of off-duty compensation in pensionable earnings will generate approximately \$327,000 per year in additional employee contributions to the pension plan. However, with the inclusion of unused sick and/or vacation time with the members salary for pension purposes, the Fire and Police Pension Plan actuary has estimated an impact of a \$369,000 increase to the Annual Required Contribution in future years.

Future Employees - For future employees, in addition to the changes referenced above, the following additional pension changes became effective for all fire and police sworn employees hired on or after November 30, 2010 (date the Fire and Police pension ordinance became effective):

- Retiree COLA (including while in the DROP) will change from 2.5% to 1.5%;
- Rule of 70 retirement eligibility will change from having no minimum age to having a minimum age of 48;
- Final Average Monthly Earnings (FAME) changing from two (2) to three (3) years; and
- Benefit Multiplier will change from three percent (3%) for each year of creditable service for the first 15 years of service and four percent (4%) thereafter to three percent (3%) for each year of creditable service for the first 20 years of service and four percent (4%) thereafter.

In 2010, Buck Consultants, the actuary for the Fire and Police Pension Plan, stated that implementation of the above pension changes for new employees will not generate any significant immediate savings in the first few years. However, future savings will be realized in future fiscal years resulting in significant savings towards the City's ARC and the Unfunded Accrued Actuarial Liability (UAAL). As part of the Budget Advisory Committee's (BAC) recent work on pension reform options for the Fire and Police Pension Plan, the City's actuary, Actuarial Concepts, estimates that these changes for the new employees will have an annual savings of over \$1 million after five years (\$700,000 in present value savings), over \$2 million after ten years (\$1 million in present value savings), and nearly \$12 million after thirty years (over \$1 million in present value savings). The total present value savings over 30 years is approximately \$33 million.

In summary, the savings/(cost) anticipated for the first few years of the plan are as follows:

	Deferral of Retiree COLA	Overtime Cap	Changes for New Employees
FY 2010-11	\$0	Under Review by Actuary	\$0
FY 2011-12	\$0	Under Review by Actuary	\$0
FY 2012-13	\$651,000	(\$369,000)	\$78,096

The initial estimates were developed during the contract negotiations with the fire and police unions back in September 2010. These figures will need to be updated by the Fire and Police Pension Plan actuary for the October 1, 2011 valuation report that will determine the City's Annual Required Contribution payable in FY2012/2013.

It is the City's understanding that the attorney for the Board of Trustees of the Fire and Police Pension Plan has requested an Attorney Client Session to take place just prior to their regular Board meeting on July 19, 2012 (only the Board Members, attorneys and a court reporter will be allowed to attend this Attorney Client Session). The deadline to have filed a motion for a rehearing by the Third District Court of Appeal was July 13, 2012 and it is the City's understanding that motion was not filed. The deadline to file an appeal to the Florida Supreme Court is July 27, 2012. Given this, the City is not certain of what steps the Board of Trustees plans to take regarding the outcome of the Third District Court of Appeal decision.

The Administration and the City Attorney will keep you posted on how this matter develops further. In the meantime, if you have any questions or need any additional information, please feel free to contact me.

KGB/ri