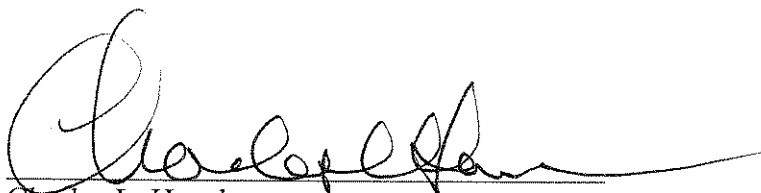


As presented to the City Commission, the changes described above, and the termination of the existing trust and creation of new trust will occur January 1, 2009. Persons retired prior to September 2008, shall be considered current retirees. This will provide some transition/planning period, particularly for current retirees, before the change in formula takes effect.

This ordinance requires two hearings. Should the City Commission pass this ordinance on first reading, second and final reading will be held on Thursday, September 4, 2008.

Prepared and
Submitted by:



Charles L. Hauck
Assistant Senior City Attorney

Approved and
Submitted by:



Marion J. Radson
City Attorney

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ORDINANCE NO. 0-08-52

An ordinance of the City of Gainesville, Florida, relating to the City's retiree health insurance program and trust fund, terminating the existing program and trust, creating a new retiree health insurance program and trust fund as Article XII of Chapter 2 of the City of Gainesville Code of Ordinances; describing contributions and benefits provided under the program and Trust, providing for administration of the program and Trust; and protection against creditors; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a prospective effective date.

WHEREAS, the City Commission of the City of Gainesville, Florida, has in the past chosen to pay some of the premium costs for continued health insurance coverage for retirees and/or their dependents, the percent or amount of which payment for either the retiree or dependent coverage has varied over the years and may continue to do so in the future; and

WHEREAS, the City Commission of the City of Gainesville has determined that, to the extent provided herein, it is in the best interest of its employees and retirees, and its citizens and taxpayers, to hold in trust for the benefit of the Retiree Health Insurance Program (as defined herein) the accumulated assets and disburse payments for health insurance premiums for retired employees and their dependents; and

WHEREAS, the Retiree Health Insurance Program provides that, to the extent provided herein, the employer contributions are irrevocably

1 deposited for the benefit of the Retiree Health Insurance Program and that
2 the trusts assets are dedicated to paying the premium costs for health
3 insurance for eligible retirees and their dependents and beneficiaries
4 through the program of insurance and/or self insurance offered by the City
5 of Gainesville, while protecting the assets from creditors of the City; and

6 **WHEREAS**, the Government Accounting Standards Board
7 (GASB) has issued and interpreted accounting standards for, among other
8 things, post-employment benefits, such as those provided through the
9 Retiree Health Insurance Program and Trust Fund; and

10 **WHEREAS**, rapidly escalating health care costs and an increasing
11 number of retirees necessitate revisions to the Retiree Health Insurance
12 Program to increase the probability of the City funding a portion of the
13 retiree premium costs on a long-term basis.

14 **WHEREAS**, at least 10 days notice has been given once by publication in
15 a newspaper of general circulation notifying the public of this proposed ordinance
16 and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville;
17 and

18 **WHEREAS**, the Public Hearings were held pursuant to the published
19 notice described at which hearings the parties in interest and all others had an
20 opportunity to be and were, in fact, heard; and

21 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY**
22 **COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:**

1 **Section 1.** Article XII of Chapter 2 of the Code of Ordinances of the City
2 is created and added to the Code of Ordinances to read as follows:

3 **ARTICLE XII. RETIREE HEALTH INSURANCE PROGRAM AND**
4 **TRUST FUND**

5 **Sec. 2-640. Purpose.**

6 The purpose of the Retiree Health Insurance Program and Trust Fund is to
7 accumulate, invest and manage the funds described in Section 2-642 that are
8 necessary to meet the premium costs of providing health insurance to eligible
9 retirees and their eligible dependents and beneficiaries through the program of self
10 insurance and/or insurance provided by the City of Gainesville. This is
11 accomplished pursuant to a trust, which trust assets are dedicated to providing
12 benefits to eligible retirees and their eligible dependents through the payment of
13 health insurance premiums, and which trust assets are protected from the creditors
14 of the City. The program encourages use of other health care systems, such as
15 Medicare.

16 **Sec. 2-641. Definitions.**

17 *City* shall mean the City of Gainesville, Florida.

18 *City Group Health Plan* shall mean the group insurance or self insurance
19 plan(s) maintained by the City of Gainesville to provide health coverage for
20 eligible employees, retirees and dependents.

1 *Credited Service* shall mean service with the City upon which the
2 retirement benefit the retiree is receiving (or will be receiving in the case of
3 delayed retirement) is based, or would be based in the case of an “ICMA” retiree.

4 *Current Premium Costs* shall mean the payment of the current months
5 Premium owed or owing to the City Group Health Plan for such month’s retiree
6 health insurance coverage as of the effective date of the termination of the plan
7 pursuant to Section 2-652(b) hereof.

8 *DROP* means a deferred retirement option program as set forth in the City
9 of Gainesville Employees Pension Plan or the Consolidated Police Officers and
10 Firefighters Retirement Plan.

11 *Participant* means a retiree or dependent as defined in the City Group
12 Health Plan.

13 *Premium* shall mean the monthly amount(s) the City charges for retiree
14 health insurance coverage, including, if applicable, under a Medicare Supplement
15 Plan, as established by the City Manager.

16 *Retiree* shall mean:

- 17 (a) A former employee, who is a member of the city employees
18 pension plan or a member of the consolidated police officers and
19 firefighters retirement plan and received, immediately after
20 separation from employment, a monthly annuity pursuant to an
21 application for normal or early retirement, in accordance with the
22 provisions of these pension plans; or

1 (b) A former employee upon whose behalf employer contributions
2 were made to the ICMA deferred compensation program and/or
3 401(a) plan and who, at the time of their separation from the City,
4 would have met the age and/or service requirements for normal or
5 early retirement under the city employee pension plan or the
6 consolidated police officers and firefighters retirement plan as
7 applicable to the classification they held at the time of their
8 separation, and would have been entitled to the immediate receipt
9 of a monthly annuity; or

10 (c) A former employee, who is a member of the consolidated police
11 officers and firefighters retirement plan and is receiving a monthly
12 annuity pursuant to an approved application for disability
13 retirement in accordance with the provisions of that pension plan;
14 or

15 (d) A former employee of the city receiving a monthly benefit pursuant
16 to an approved application for disability retirement under the city
17 employee's disability plan.

18 *Retiree Health Insurance Program* shall mean the retiree health insurance
19 program established pursuant to this Ordinance No. 080155 as further described
20 herein to pay a portion of the premium costs of the City Group Health Plan for
21 eligible retirees of the City and their eligible dependents, and as may be amended.

22 **Sec. 2-642. *Trust fund established; contributions.***

1 (a) *Establishment.* There is hereby created a trust fund to be known as the
2 Retiree Health Insurance Trust Fund (the "Trust Fund"). The creation and
3 maintenance of the Trust Fund's assets shall be in accordance with and for the
4 benefit of the Retiree Health Insurance Program, described in this Article. The
5 Trust Fund shall initially consist of an amount equal (i) all trust assets of the
6 retiree health insurance trust fund described in Article XI of Chapter 2 of the City
7 of Gainesville Code of Ordinances, which retiree health insurance program and
8 trust fund, all liabilities having been satisfied, is being terminated by this
9 Ordinance No. 080155, except for the principal and all earnings derived from the
10 issuance by the City of its City of Gainesville, Florida, Taxable and Other Post
11 Employment Benefits Obligations Bonds - Series 2005 (Retiree Health Plan), and
12 (ii) such other amount transferred from the assets of such terminated program and
13 trust as is necessary to fund the Retiree Health Insurance Program created by this
14 Ordinance, as determined by an actuarial valuation performed by the City, which
15 amounts shall be irrevocably transferred to said Trust Fund after adoption of this
16 ordinance. Any remaining assets of the terminated trust shall be returned to the
17 City, where they may be used for any lawful purpose.

18 (b) *Contributions.* In addition to premium payments made by retirees, gifts to
19 the fund accepted by the city, and earnings, the city manager shall irrevocably
20 transfer and/or deposit in the fund sum(s), which together with the other sources
21 of income to the fund shall be sufficient to pay for the premium for health
22 insurance benefits of the participants, including both the normal costs of such

1 benefits and those necessary to amortize the unfunded liability (excluding that
2 resulting from any implicit subsidy) for such benefits over a period of not longer
3 than 40 years. For the purpose of securing the necessary funds, the city
4 commission is hereby authorized to levy such taxes and generate such other
5 revenues as may be necessary to provide the appropriate level of city
6 contributions.

7 (c) *Disbursements.* Monies in this fund may be disbursed only to the City
8 Group Health Plan for the payment of premiums for retiree health insurance for
9 participants of the City Group Health Plan and for the costs associated with
10 managing, administering, and operating the Retiree Health Insurance Program and
11 the Retiree Health Insurance Trust Fund and any appropriate transfers as described
12 herein.

13 **Sec. 2-643. *City contributions for future retirees.***

14 For persons retiring, or applying for retirement, as applicable, after the
15 dates set forth in this section, the City contribution towards a monthly Premium
16 shall be determined as follows:

17 (a) *Normal or early retirement.* Subject to the provisions contained herein,
18 the amount that the City will contribute towards the required Premium for persons
19 first retired effective after August 31, 2008, under normal or early retirement, will
20 be calculated in accordance with the following formula:

21 Ten dollars (\$10) x (times) number of years of credited service and portion
22 thereof of:

1 (1) plus five dollars (\$5) x (times) number of years of age and portion
2 thereof over 65, on the date that retiree first accesses (enters) the
3 Retiree Health Insurance Program, or

4 (2) minus five dollars (\$5) x (times) number of years of age and
5 portion thereof under 65, on the date that retiree first accesses
6 (enters) the Retiree Health Insurance Program.

7 (b) DROP service. Employees who have entered a regular DROP after August
8 31, 2008, or who declare their intention to reverse DROP after August 31, 2008,
9 shall not have the period of employment while in regular DROP, or the period of
10 employment after the effective date of commencement of participation in the
11 (reverse) DROP, count as credited service under subsection (a) above.

12 (c) Disability retirees. The amount that the city will contribute towards the
13 required premium, for persons who became retirees based upon an application for
14 disability retirement submitted after August 31, 2008, will be:

15 (1) For approved "in-line-of-duty" disabilities under the Consolidated
16 Police Officers and Firefighters Retirement Plan or the City of
17 Gainesville Employees Disability Plan, the City will contribute
18 towards an individual premium an amount equal to 80% of the
19 individual premium of the least costly (lowest Premium) City
20 Group Health Insurance Plan option being offered at the time the
21 disability retirement is approved.

1 (2) For approved "in-line-of-duty" disabilities under the consolidated
2 Police Officers and Firefighters Retirement Plan of the City of
3 Gainesville Employees Disability Plan, the City will contribute
4 towards any other (than described in (1) above) tier of coverage an
5 amount equal to 150% of the individual premium of the least costly
6 (lowest Premium) City Group Health Insurance Plan option being
7 offered at the time the disability retirement is approved.

8 (3) For approved disabilities other than "in-line-of-duty", the city will
9 contribute 50% of the amount described in (1) and (2) above.

10 **Sec. 2-644. City contribution for current retirees.**

11 For persons retiring or applying for retirement, as applicable, before the
12 dates set forth in this section, the City contribution towards a premium shall be
13 determined as follows:

14 (a) *Normal or early retirement.* Subject to the provisions contained herein,
15 the amount that the City will contribute towards the required Premium for persons
16 first retired effective before September 1, 2008, under normal or early retirement
17 will be calculated in accordance with the following formula:

18 Ten dollars (\$10) x (times) number of years of credited service and portion
19 thereof of:

20 (1) plus five dollars (\$5) x (times) number of years of age and portion
21 thereof over 65, on the date that retiree first accessed (enters) the

1 Retiree Health Insurance Program or January 1, 2009, whichever is
2 later; or

3 (2) minus five dollars (\$5) x (times) number of years of age and
4 portion thereof under 65, on the date that retiree first accesses
5 (enters) the Retiree Health Insurance Program or January 1, 2009,
6 whichever is later.

7 (b) DROP service. Employees who have entered a regular DROP before
8 September 1, 2008, or who have declared their intention to reverse DROP before
9 September 1, 2008, shall have the period of employment while in the regular
10 DROP, or the period of employment after the effective date of commencement of
11 participation in the (reverse) DROP, added to credited service for purposes of the
12 calculation under subsection (a) above.

13 (c) Disability retirees. (1) The amount that the city will contribute towards
14 the required Premium, for persons who became retirees based upon application for
15 disability retirement submitted before September 1, 2008, will be an amount equal
16 to 80% of the individual premium of the least costly (lowest Premium) City
17 Group Health Plan option being offered at that time.

18 (2) The City will contribute towards any other (than described in (1) above) tier
19 of coverage of an amount equal to 150% of the individual premium of the least
20 costly (lowest premium) City Group Plan option being offered at that time.

21 (d) Retirees at least 65 years of age January 1, 2009. For current retirees age
22 65 years or older on January 1, 2009, the amount the City will contribute towards

1 the required Premium will be the greater of the amount contributed for the month
2 of August 2008 or the amount determined under the provisions of this Ordinance
3 No. 080155. Said amount shall however be subject to the limitations and
4 adjustments described in Sections 2-646 and 2-647.

5 **Sec. 2-645. *Opting-Out and re-entry; Rehired Retirees;***

6 (a) A retired participant may exercise a one-time opt-out and re-enter the City
7 Group Health Plan or Medicare Supplement Plan in the future. The retiree and
8 any dependents covered at the time of the opt-out will be able to re-enter the City
9 Group Health Plan, subject to eligibility requirements of the of the City Group
10 Health Plan, without pre-existing condition waiting periods applying to such
11 retirees and dependent(s). In addition, a retiree/participant may choose to not
12 exercise his/her initial enrollment opportunity and this will not count as his/her
13 one-time opt-out. Also, an employee non-participant who was eligible to apply
14 for coverage during the most recent annual enrollment period (and any dependents
15 who would have been eligible for coverage at that time) who does not elect to
16 enter the Plan at the time of retirement (initial enrollment) will also not have this
17 count as his/her one-time opt-out.

18 Opt-out means the retiree's ability to terminate coverage with the City of
19 Gainesville Group Health Plan after becoming a retiree as defined by the City
20 Group Health Plan.

21 The opt-out applies to:

- 22 1. Termination of the contract

1 2. Dependents can be terminated subject to enrollment provisions of
2 the City Group Health Plan.

3 Termination of the contract effective date:

- 4 1. If during open enrollment period, end of the plan year
5 2. If voluntary, end of the month in which the election is made.

6 Termination of dependent coverage effective date:

- 7 1. When eligibility ends as defined by the City Group Health Plan
8 2. If voluntary, end of the month in which the election is made

9 (b) *Opting-Out and its Affect on the City Contribution.* The intent of the opt-
10 out provisions is to give the retiree an opportunity to decline or terminate
11 coverage under the City's Group Health Plan one-time without foregoing the
12 benefit (eligibility to participate in the City Group Health Plan) in the future. The
13 benefit to the City is the transfer of premium cost and claims risk to another health
14 plan during the opt-out period. Except as provided below, the City will
15 recalculate the City's contribution based on the retiree's age upon re-entry into the
16 City Group Health Plan or the Medicare Supplement Plan, if applicable. This will
17 potentially increase the City's contribution towards the retiree's monthly health
18 insurance premium.

19 (c) The retiree's City Contribution shall be recalculated upon re-entry to the
20 City Group Health Plan or Medicare Supplement Plan when opting-out results in a
21 transfer of claims risk from the City Group Health plan. A retiring employee

1 (participant or not) might elect to not enroll initially, or opt-out later when:

- 2 1. Retiree choosing coverage with a successor employer
- 3 2. Retiree becomes a covered dependent under a Non-city-Employee
- 4 spouse's health plan
- 5 3. Retiree is covered under an individual policy
- 6 4. Retiree elects not to carry health insurance
- 7 5. Retiree elects to participate in a City Sponsored Medicare
- 8 Supplement Plan.

9 (d) The retiree's City contribution shall not be recalculated when the opt-out
10 does not result in a transfer of claims risk from the City Group Health Plan.

11 Examples of this would be:

- 12 1. Retiree transfers coverage to a City Employee Spouse's plan. In
- 13 this case the spouse would be an active City Employee.
- 14 2. Rehired Retiree (see Rehired Retiree provision below)

15 In the cases immediately above, the retiree's city contribution will be
16 frozen at the initial city contribution (not recalculated upon re-entry but subject to
17 adjustment per Section 2-647) because decreasing the age reduction would be
18 inconsistent with the transfer of risk policy. Upon re-entry, the city contribution
19 would be based on calculation described in Sections 2-643(a) and 2-644(a) when
20 the retiree first entered the Plan, or was first eligible to enter the Plan.

21 (e) *Opting-In (other than initial enrollment period) Effective Date of*
22 *Coverage.*

1 The effective date of coverage upon re-entry to the City Group Health Plan
2 (opting-in) will be the first day of the month following the election to opt-in.

3 (f) *Rehired Retirees.* In the event a retiree is rehired by the City of
4 Gainesville as a regular employee, the rehired retiree is treated as an active
5 employee for the purposes of benefits during such period or re-employment. This
6 includes participation in the City Group Health Plan. If the rehired retiree
7 continues health insurance with the City of Gainesville, the retiree is considered
8 an active employee and will pay the premium associated with an active employee
9 in the same tier. Credited service earned as a rehired retiree shall not count as
10 credited service under Section 2-643(a) and Section 2-644(b). Upon re-entry to
11 the Retiree Health Insurance Program, the rehired retiree's benefit will not be
12 recalculated based upon age at re-entry (See (d) above).

13 **Sec. 2-646. *Limitations on contributions.***

14 (a) Except as may be required by the application of Section 2-644(d), in no
15 event shall the City's contribution toward a required Premium exceed the amount
16 of the Premium the City contributes for active employees for the least costly
17 (lowest Premium) City Group Health Plan option being offered at that time, for
18 the applicable tier of coverage involved. In the event that the eligible retiree has
19 elected to participate in the City sponsored, if any, Medicare Supplement Plan in
20 lieu of participating in the City Group Health Plan(s), the City's contribution shall
21 not exceed the amount of the Premium for the Medicare Supplement Plan.

1 (b) Retiree and dependents participating in the City Group Health Plan or
2 Medicare Supplement Plan will be required to authorize payment of premiums
3 from RHS accounts or pension annuities, where sufficient funds are reasonably
4 available for such purposes, in order to remain eligible to receive contributions
5 from the City towards the Premium.

6 **Sec. 2-647. *Annual Adjustments.***

7 Subject to 2-646, limitations on contributions, the City's contribution towards the
8 required Premium will be adjusted annually at rate of 50% of the annual
9 percentage change in the individual premium for the least costly (lowest
10 Premium) City Group Health Plan option being offered, compared to the Premium
11 of the least costly (lowest Premium) option offered the prior Plan year.

12 **Sec. 2-648. *Administration of the program.***

13 (a) *General supervision.* The general supervision of the Retiree
14 Health Insurance Program shall be the responsibility of a board of trustees
15 established in accordance with this section.

16 (b) *Board of trustees.* There is hereby created a board of trustees
17 whose duty shall be to administer, manage and operate the Retiree Health
18 Insurance Program carrying into effect its provisions. The members of the board
19 of trustees shall be the members of the city commission.

20 (c) *Trustees' term.* Members of the city commission shall serve as
21 trustees of the program during their term of office as members of the city
22 commission.

1 (d) *Compensation of trustees.* Trustees of the program shall serve
2 without compensation for their services as trustees.

3 (e) *Meetings of the board; form.*

4 (1) The board shall hold meetings as required, and shall designate the
5 time and place thereof. It shall adopt its own rules and procedures and
6 shall keep a record of its procedure. All meetings of the board shall be
7 public.

8 (2) The majority of the board shall constitute a quorum at any meeting
9 of the board. Each trustee shall be entitled to one vote at the meeting of
10 the board and at least four concurring votes shall be necessary for
11 decisions of the trustees.

12 (f) *Retirement program officers:*

13 (1) The mayor of the city commission shall be the chair of the board
14 and the mayor pro-tem of the commission shall be the chair pro-tem of the
15 board.

16 (2) The clerk of the city commission shall be the secretary of the
17 board.

18 (3) The director of finance shall be the treasurer of the program and
19 shall be custodian of the funds. The city manager shall be the program
20 administrator and shall have the power to finally approve members' or
21 beneficiaries' claims for benefits, to issue rules, and otherwise interpret the
22 program.

1 (4) The city attorney shall be legal advisor to the board.

2 (5) The program administrator shall employ such professional and
3 clerical services as required for the proper operation of the program and
4 provide for their compensation.

5 (g) *Actuarial evaluation; annual report.* The treasurer of the program
6 shall keep or cause to be kept such data as shall be necessary for an actuarial
7 valuation of the assets and liabilities of the program. On a periodic basis, at least
8 once every two years, the Retiree Health Insurance Program shall be subject to an
9 actuarial evaluation which shall determine the adequacy of the payments into the
10 fund to meet premium requirements and shall determine the changes in
11 contributions, if any, needed in such to achieve the funding through premiums,
12 earnings, and other sources of income that is deemed adequate to enable payment
13 through the indefinite future of the Retiree Health Insurance Program described
14 herein. As may be required, an actuarial report shall be prepared which shall
15 include a description of the current total premium, current retiree premium
16 payment, and current city contributions; a valuation of present assets based upon
17 statement value and prospective assets and liabilities of the Retiree Health
18 Insurance Program Fund and the extent of unfunded liabilities; a plan to amortize
19 any unfunded liabilities; a description of actions taken to reduce unfunded
20 liabilities; a description and explanation of actuarial assumptions, a schedule
21 illustrating amortization of any unfunded liabilities; a comparative review
22 illustrating the level of funds available to the plan from premiums, investment

1 income, and other sources realized over the period covered by the report with the
2 assumptions used; and a statement by the actuary that the report is complete and
3 accurate and that in his opinion the techniques and assumptions used are
4 reasonable and meet the requirements and intent of this article. The board shall
5 cause to be made an annual audit showing the fiscal transactions of the program
6 for the preceding fiscal year. The most recent report showing the financial
7 condition of the program by means of an actuarial valuation of its assets and
8 liabilities shall be attached to the report.

9 (h) *Administrative regulations.* The program administrator may
10 promulgate regulations not in conflict with the terms of this division to cover the
11 operation of any phase or part of the Retiree Health Insurance Program that is
12 defined in this division. Copies of the rules and regulations shall be furnished to
13 any eligible retiree or dependent participant upon request and at least one copy
14 thereof shall be kept available in the office of the clerk of the city commission for
15 examination by any interested person at any time during ordinary business hours.
16 The most current report of pertinent financial and actuarial information on the
17 solvency and actuarial soundness of the Retiree Health Insurance Program shall be
18 kept available in the office of the clerk of the city commission for examination
19 and shall be provided at no cost to the program members upon their request.

20 (i) *Interpretation of the Retiree Health Insurance Program, denial of*
21 *benefits.* The board and administrator have the power to construe the provisions
22 and terms of the Retiree Health Insurance Program, and their construction made in

1 good faith shall be final and conclusive. There shall be timely, adequate written
2 notice given to any whose claim for eligibility under the terms of the Retiree
3 Health Insurance Program have been denied, setting forth the specific reasons for
4 such denial and the program administrator shall provide procedures for appeals of
5 such decisions.

6 (j) *Agents and employees.* The program administrator shall have the
7 power to select, employ and compensate, or cause to compensate from time to
8 time such consultants, actuaries, accountants, investment counsel, and other
9 agents and employees as the Retiree Health Insurance Program administrator may
10 deem necessary and advisable in the proper and efficient administration of the
11 program. The City Attorney shall have the power to select, employ and
12 compensate, or cause to compensate, from time to time an attorney as the City
13 Attorney may deem necessary and advisable in the proper and efficient
14 administration of the Retiree Health Insurance Program.

15 (k) *Other powers and duties.* The powers and duties of the board or of
16 any other person as set out herein are not intended to be complete and exclusive
17 but each such body or person shall have powers and duties as they are reasonably
18 implied under the terms of this article.

19 (l) *Duties of the secretary.* It shall be the duty of the secretary to keep
20 minutes and records of the acts of the board under this program separate and apart
21 from minutes of the city commission meetings and these shall be maintained in
22 the office of the clerk of the city commission.

1 (m) *Membership records.* All notices, elections, designations and
2 changes in beneficiary, and similar writings pertaining to the operation of the
3 program shall be made and preserved in writing on such forms as the
4 administrator may direct. A service record for each member shall be maintained
5 in the risk management department which shall show, at least:

6 (1) For each participant of the system, a number or other means of
7 identification, date of birth, sex, date of employment, current address,
8 period of credited service;

9 (2) Beginning date of participation, date and type of retirement and
10 amount of monthly benefit, and type of survivor benefit.

11 In order to receive benefits under this program, the participant or beneficiary;
12 upon request, shall be required to submit, or authorize the administrator to secure,
13 any information concerning his/her entitlement to eligibility and contributions or
14 other information reasonably related to the operation of the program.

15 (n) *Fiduciary duties.* The board of trustees and retirement program
16 officers shall, in the performance of program duties, discharge their duties with
17 respect to the program solely in the interest of the participants and beneficiaries
18 for the exclusive purpose of providing benefits to participants and their
19 beneficiaries and defraying reasonable expenses of administering the program.
20 The program may purchase insurance for its fiduciaries to cover liabilities or
21 losses incurred by reason or acts or omissions of the fiduciaries.

1 (o) *Investment of funds.* The program administrator shall have full
2 power to invest and reinvest all funds within its control and to make investments
3 of all kinds except as otherwise provided by statute or ordinance or policy
4 direction of the board of trustees.

5 (p) *Errors.* Should any change or error in the records result in any
6 participant or beneficiary contributing to the program more or less than he/she
7 would have been entitled had the records been correct, the program administrator
8 shall correct such error and as far as practical shall adjust the contributions in such
9 manner that so as to correct such error or underpayment within a reasonable
10 period of time.

11 **Sec. 2-649. *Separability and construction.***

12 If any section, subsection, sentence, clause, or phrase of this article be held
13 to be invalid or unconstitutional, such adjudication shall not in any manner affect
14 the remaining portions of this article, which shall be, and remain, in full force and
15 effect, as fully as if the portion so adjudicated invalid or unconstitutional were not
16 originally a part thereof. The section headings included in this article shall not be
17 construed to limit the text included thereunder.

18 **Sec. 2-650. *Protection against fraud and deceit.***

19 Whosoever with intent to deceive shall make or cause to be made any
20 statement, report, certificate, election, notice, claim or other instrument,
21 authorized or required under this article, whether of the enumerated classes or
22 otherwise, which shall be untrue, or shall falsely or cause to be falsified any

1 record comprising a part of the operation or administration of this program
2 contemplated by this article shall be punished as provided in section 1-9 of the
3 Code of Ordinances.

4 **Sec. 2-651. *Miscellaneous.***

5 *Limitations of assignment.* None of the assets shall be subject to the claim
6 or to any legal process of any creditor of the participant or the City. No
7 participant or other persons or entity shall have any interest in, or right in or to, the
8 trust fund or any part thereof, or any assets comprising the same, except only as to
9 the extent expressly provided in this article.

10 **Sec. 2-652. *Amendment; termination of the program.***

11 (a) *Power to amend.* The city commission shall have the right, at any
12 time, to amend any or all of the provisions of the Retiree Health Insurance
13 Program; provided, however, that no such amendment shall authorize or permit
14 any part of the Trust Fund to be diverted for purposes other than for the exclusive
15 benefit of retirees and their dependents and beneficiaries.

16 (b) *Termination of program.* The city commission expects to continue
17 the Retiree Health Insurance Program indefinitely, but reserves the right to
18 terminate the Retiree Health Insurance Program and/or city contributions
19 hereunder at any time. In the event of the termination of the Retiree Health
20 Insurance Program, the rights, if any, of all participants to assets utilized to pay
21 Premiums of participants up to the date of termination shall be non-forfeitable.
22 Notwithstanding anything herein to the contrary, in the event of termination of the

1 Retiree Health Insurance Program and Trust Fund, if arrangements have been
2 made for the payment of the full amount of the Current Premium Costs for the
3 benefits provided under the Retiree Health Insurance Program for the participants
4 and their dependents and beneficiaries, through the Trust Fund, so that the Retiree
5 Health Insurance Program has no unfunded liability under the Retiree Health
6 Insurance Program remaining, then the remaining assets in the Retiree Health
7 Insurance Trust Fund shall be returned to the City to be used for any legally
8 permitted purpose, and the City shall have no further liability under the Retiree
9 Health Insurance Program after the effective date of such termination.

10 **Section 2.** Article XI of Chapter 2 of the City of Gainesville Code of
11 Ordinances, entitled RETIREE HEALTH INSURANCE PROGRAM AND
12 TRUST FUND is hereby terminated and repealed in its entirety as of January 1,
13 2009, as follows:

14 ARTICLE XI. Reserved.

15 **Section 3.** It is the intention of the City Commission that the provisions of
16 Section 1 of this ordinance shall become and be made a part of the Code of
17 Ordinances of the City of Gainesville, Florida, and that the Sections and
18 Paragraphs of this Ordinance may be renumbered or relettered in order to
19 accomplish such intentions. It is the intention of the City Commission that, as
20 provided in Section 2, Article XI of Chapter 2 be removed from the Code of
21 Ordinances.

1 **Section 4.** If any word, phrase, clause, paragraph, section or provision of
2 this ordinance or the application hereof to any person or circumstance is held
3 invalid or unconstitutional, such finding shall not affect the other provisions or
4 applications of the ordinance which can be given effect without the invalid or
5 unconstitutional provisions or application, and to this end the provisions of this
6 ordinance are declared severable.

7 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are
8 to the extent of such conflict hereby repealed.

9 **Section 6.** This ordinance shall become effective January 1, 2009.

10 **PASSED AND ADOPTED** this ____ day of _____, 2008.

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ATTEST:

PEGEEN HANRAHAN, MAYOR

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

20 This Ordinance passed on first reading this ____ day of _____, 2008.

21 This Ordinance passed on second reading this ____ day of _____, 2008.



Communications Workers of America AFL-CIO Local 3170
Public Employees of Gainesville and Alachua County
2512 NW 6th Street, Gainesville, FL 32609
(352) 375-3170 • FAX (352) 371-3257 • E-Mail: cwa3170@atlantic.net

August 11, 2008

Russ Blackburn, City Manager
City of Gainesville FL
PO Box 490 – Station 6
Gainesville FL 32602-0490

AUG 11 2008

4:15 pm RAS

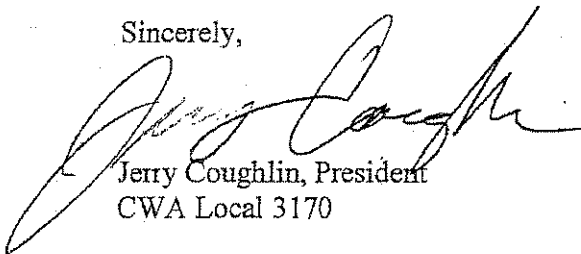
Re: Proposed Ordinance Change – Health Insurance

Dear City Manager Blackburn:

The City is drafting a proposed ordinance change over the health insurance benefits and contribution levels/rates that current bargaining unit employees would earn and receive at the time they retire. Retirement benefits are a mandatory subject of bargaining, and CWA demands to bargain any changes prior to implementation. The City must cease and desist, not implement any changes, and maintain the status quo until the statutory collective bargaining process is completed. If the City fails to maintain the current health insurance benefits for CWA bargaining unit members upon retirement, CWA will consider the City to have violated the collective bargaining agreement and Florida law, and pursue the matter through the contract grievance/arbitration procedure and/or unfair labor practice proceedings.

We look forward to working with you through the IBB process in negotiating any changes.

Sincerely,


Jerry Coughlin, President
CWA Local 3170

JC/mds

cc: City Attorney
City Auditor
Clerk of the Commission
EO Director
General Manager/Utilities
City Commission

From: McAdams, Jeff B.
Sent: Thursday, April 17, 2008 6:48 AM
To: Blackburn, Russ D.
Cc: Coughlin, Gerard J.; Lane, Jeffrey J.; Barnard, Sandy; Halvosa, William T.; pdonnelly@laboratorys.org; gator67fop@aol.com
Subject: Demand for Bargaining regarding recent propose change to Retiree Health Insurance

Mr. Blackburn,

On April 4th, 2008, union representatives met with Mr. Steve Varvel and Ms. Karen Johnson in reference to recent changes the City was implementing to the retiree health insurance program.

As I understand it, retiree health insurance is a benefit and therefore please allow this email to serve as the FOP's demand to bargain this proposed change prior to it being adopted by the City. As soon as possible please have someone contact me to setup negotiations.

Thank you,

Officer Jeff McAdams
Gainesville Police Department
721 NW 6th Street
Gainesville, FL 32601
(352) 334-2400

From: Lindsay, Denise J.
Sent: Thu 4/10/2008 12:24 PM
To: DG_GPD
Subject: FW: Retiree Health Insurance.pdf

Hauck, Charles L.

From: Rountree, Becky L.
Sent: Tuesday, April 22, 2008 1:31 PM
To: McAdams, Jeff B.
Cc: Lane, Jeffrey J.; Coughlin, Gerard J.; Reynolds, Elmore R.; Halvosa, William T.; Varvel, Steven C.; Benton, Mark S.; Hauck, Charles L.; Johnson, Karen S; Barnard, Sandy
Subject: request to bargain on retiree health program
Attachments: retiree health.pdf

Jeff,

The City Manager asked that I forward the enclosed memo to you regarding your request to bargain the changes proposed to the retiree health insurance program. I am also copying each of the other union presidents. I will give you a hard copy when I see you later today.

Thanks, Becky

Becky L. Rountree
City of Gainesville
Administrative Services Director
(352)334-5013
routreebl@cityofgainesville.org

4/22/2008

Mr. McAdams:

By email dated April 17, 2008, you noted that City management has recently advised various bargaining unit representatives, yourself included, that the City was going to make some amendments to the Retiree Health Insurance Program. This program was most recently amended by Ordinance No. 0-06-14, adopted on February 27, 2006. A copy of this Ordinance is attached for your convenience, and reference.

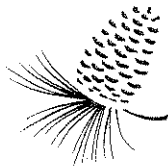
You have demanded that the City bargain over the proposed changes to the Retiree Health Insurance Program.

As you may or may not be aware, the City has historically, unilaterally "...chosen to pay some of the premium costs for continued health insurance coverage for retirees and or their dependents, the percent or amount of which payment for either the retiree or dependent coverage has varied over the years..." and the City has retained this right to vary such in the future, i.e now. (See first whereas clause of Ordinance 0-06-14).

As indicated in the presentation to union representatives referred to above, the increasing number of retirees and escalating health care costs require a continuing evaluation of the extent to which City and City employees could/should subsidize retiree/dependent health coverage.

These changing factors make it imperative that the City act in a fiscally responsible way in balancing its expenditures for retiree health coverage with other needs and programs. In this regard the City has clearly retained the right to unilaterally, without bargaining, amend the Program, and for that matter terminate the Program and Trust. Please read Section 2-638, Amendment; termination of the program, set forth in the attached Ordinance No. 0-06-14.

Under these circumstances the City declines your demand to "setup negotiations", or to bargain over the changes to the Retiree Health Insurance Program and Trust.

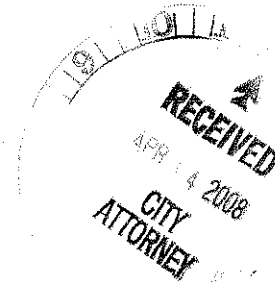


LEWIS, LONGMAN & WALKER, P.A.
ATTORNEYS AT LAW

Reply To: Tallahassee

April 11, 2008

Charles L. Hauck, Esq.
Senior Assistant City Attorney
City of Gainesville
Post Office Box 490, Station 46
Gainesville, FL 32602



Re: Retiree Health Insurance Trust

Dear Charlie:

You have requested an opinion concerning the City Commission's ability to modify or terminate the retiree health insurance program created by Ordinance No. 0-06-14; and if the program is terminated, what obligations the City has with respect to the assets of the trust fund established pursuant to that ordinance.

We have reviewed Ordinance No. 0-06-14, and the memo from the City Attorney to the City Commission concerning the ordinance dated February 27, 2006. It is our understanding that Ordinance 0-06014 reflects the City's current retiree health insurance program, and there are no other ordinances, resolutions, policies, collective bargaining agreements, or other documents that provide for continued payment of retiree health premiums, other than as reflected in Ordinance 0-06-14. We further understand that the City has not advised its employees, verbally or in writing, that the City will continue to pay a portion of their health insurance premium after they retire, other than as provided in Ordinance No. 0-06-14.

Ordinance 0-06-14 was adopted on February 27, 2006, and is codified at sections 2-630 through 2-638 of the City Code. Section 2-632 creates a trust fund to provide for payment of retiree health insurance premiums in accordance with a formula contained in the ordinance. The City Manager is directed to transfer City funds to the trust fund in an "amount sufficient to pay for the

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Suite 1000
West Palm Beach, Florida 33401

p | 561-640-0820 • f | 561-640-8202

premium for health insurance benefits for...plan participants, including both the normal costs of such benefits and those necessary to amortize the unfunded liability...for such benefits over a period not longer than 40 years." Section 2-632 states that "monies in this [trust] fund may be disbursed only for the payment of premiums for retiree health insurance...and the costs associated with managing, administering, and operating the program..."

Section 2-638 specifically addresses amendment and termination of the program, including the trust fund. Section 2-638 states:

(a) *Power to amend:* The city commission shall have the right, at any time, to amend any or all of the provisions of this retiree health insurance program; provided, however, that no such amendment shall authorize or permit any part of the trust fund to be diverted for purposes other than for the exclusive benefit of retirees and dependents.

(b) *Termination of program.* The city commission expects to continue this program indefinitely, but reserves the right to terminate this program and/or city contributions hereunder at any time. In the event of the termination or partial termination of the program, the rights, if any, of all participants to assets utilized to pay premiums of participants up to date of termination shall be non-forfeitable. In the event the trust fund is terminated, any assets remaining after all liabilities are satisfied shall be returned to the city.

The above provisions of the City Code clearly set forth the City Commission's authority to amend or terminate the retiree health insurance program, including the trust fund established pursuant to that program. A memo summarizing relevant statutes and court decisions bearing on an employer's obligations with respect to retiree health benefits is enclosed. The statutes and court decisions make it clear that, unless a contract or other document unambiguously vests the right to retiree health benefits, an employer may modify or terminate the health benefits provided to retirees. The only caveat is created by state law, which requires a public employer to provide the same health coverage to retirees and their eligible dependents as is offered to active employees, at a premium cost of no more than the premium cost applicable to active employees. Section 112.0801, Fla. Stat. However, this statute does not require the employer to pay any portion of the premium cost for retiree health coverage.

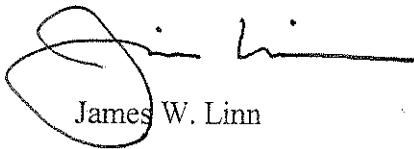
In view of the express provisions of section 2-638 of the City Code, and in the absence of any other City ordinance, resolution, contract or policy to the contrary, the City Commission has the right, at any time, to amend or terminate any or all of the provisions of the retiree health insurance program created by Ordinance 0-06-14. If the program is amended, the amendment may not authorize or permit any part of the trust fund to be diverted for purposes other than for the exclusive benefit of retirees and dependents. However, if the program and trust fund are terminated, participants have a non-forfeitable right to trust assets "utilized to pay premiums of

Charles L. Hauck
April 11, 2008
Page 3

participants up to date of termination.” Based on this language, it appears that upon termination of the trust, plan participants do not have any entitlement to trust assets in excess of those needed to pay the premiums of participants up to the date of termination. Section 2-638(b) expressly provides that, “in the event the trust fund is terminated, any assets remaining after all liabilities are satisfied shall be returned to the city.” Accordingly, in my opinion, upon termination of the trust, any trust assets remaining after payment of the premiums of participants up to the date of termination revert to the City.

Please call me if you have any questions concerning these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Linn", with a large, stylized initial "J" and "L".

James W. Linn

JWL/es

Sec. 2-638. Amendment; termination of the program.

(a) *Power to amend.* The city commission shall have the right, at any time, to amend any or all of the provisions of this retiree health insurance program; provided, however, that no such amendment shall authorize or permit any part of the trust fund to be diverted for purposes other than for the exclusive benefit of retirees and dependents.

(b) *Termination of program.* The city commission expects to continue this program indefinitely, but reserves the right to terminate this program and/or city contributions hereunder at any time. In the event of the termination or partial termination of the program, the rights, if any, of all participants to assets utilized to pay premiums of participants up to date of termination shall be non-forfeitable. In the event the trust fund is terminated, any assets remaining after all liabilities are satisfied shall be returned to the city.
(Ord. No. 050527, § 1, 2-27-06)