

**CITY OF GAINESVILLE**  
Office of the City Attorney

980281  
**Memorandum**  
334-5011/Fax 334-2229  
Box No. 46

**TO:** MAYOR AND CITY COMMISSION      **DATE:** ~~September 14, 1998~~ September 28, 1998

**FROM:** CITY ATTORNEY      ~~FIRST READING~~  
SECOND READING

**SUBJECT:** ORDINANCE NO. 0-98-92  
An ordinance of the City of Gainesville, Florida, amending section 2-602 of the Code of Ordinances relating to the City of Gainesville Police Officers and Firefighters Consolidated Retirement Plan; amending the voting requirements, duties of the secretary, clarifying the authority of the Board in regard to retention of agents and consultants; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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**RECOMMENDATION:** The City Commission adopted the proposed ordinance.

During the recent legislative session, Senate Bill 1462 made amendments to sections of Chapters 175 and 185, Florida Statutes, which are applicable to local law plans such as the City of Gainesville Consolidated Police Officers and Firefighters Retirement Plan. At its meeting of August 10, 1998, the City Commission authorized the City Attorney to revise the City of Gainesville's Code of Ordinances in order to conform to the statutory changes. Many of the statutory changes involve matters which require no change in the City's ordinances. However, some minor changes are necessary and some clarifications appropriate.

One of the changes involved specifying certain duties of the Secretary of the Board. The ordinance combines the description of the duties of the Secretary into one subsection, that being Section 2-602(1).

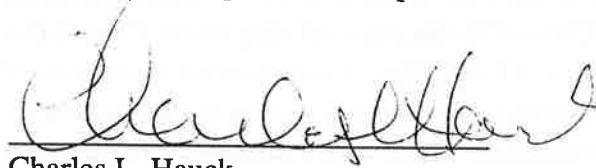
The ordinance provides for decisions to be made by a simple majority of the members present and eligible to vote, rather than the former requirement of at least three members (of the five) voting for any particular matter.

The changes in the ordinance relating to employment of actuaries and attorneys by the Board reflects current practice; that is, the Board has retained its own attorney and its own actuary. The ability to employ its own attorney and its own actuary was expressly provided for in SB 1462.

The creation of subsection (o) reflects specific statutory requirements. These are already being met by the Board's practices, however, for the purpose of clarification, the new statutory requirements will now be embodied in the plan's language.

Other provisions of SB 1462, primarily involving investment activities, do not require any amendment to plan provisions or practices.

Prepared by:



Charles L. Hauck,  
Sr. Assistant City Attorney

Approved and  
submitted by:



Marion J. Radson,  
City Attorney

MJR:CLH:sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

Ordinance No. \_\_\_\_\_  
0-98-92

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5 **An ordinance of the City of Gainesville, Florida, amending section 2-602**  
6 **of the Code of Ordinances relating to the City of Gainesville Police**  
7 **Officers and Firefighters Consolidated Retirement Plan; amending the**  
8 **voting requirements, duties of the secretary, clarifying the authority of the**  
9 **Board in regard to retention of agents and consultants; providing a**  
10 **severability clause; providing a repealing clause; and providing an**  
11 **immediate effective date.**  
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16 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
17 **CITY OF GAINESVILLE, FLORIDA:**

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20 **Section 1.** Subsections (d), (e)(2), (j), (l) of Section 2-602 of the Code of Ordinances of the  
21 City of Gainesville are hereby amended, Subsection (f)(2) of Section 2-602 is hereby repealed  
22 in its entirety, and a new subsection (o) of Section 2-602 is hereby created and added to read  
23 as follows:

24 Sec. 2-602(d) Officers and compensation. The trustees shall by majority vote elect a  
25 chairperson and a secretary. ~~The secretary of the board shall keep a complete minute book of~~  
26 ~~the actions, proceedings, or hearings of the board.~~ The trustees shall not receive any  
27 compensation for such, but may receive expenses and per diem as provided by law.

28 Sec. 2-602(e)(2) The majority of the board shall constitute a quorum at any meeting of  
29 the board. Each trustee shall be entitled to one vote at the meeting of the board and any and all  
30 acts and decisions shall be effectuated by a simple majority vote of the of the members of the  
31 board eligible to vote. ~~at least three concurring votes shall be necessary for decisions of the~~  
32 ~~trustees.~~

1           Sec. 2-602(f)(2) ~~The city attorney shall give advice to the board of trustees in all~~  
2 ~~matters pertaining to its duties in the administration of the pension trust fund whenever~~  
3 ~~requested; and shall represent and defend the board as its attorney in all suits and actions at~~  
4 ~~law or in equity that may be brought against it and bring all suits and actions in its behalf that~~  
5 ~~may be required or determined upon by the board. However, if the board of trustees so elects,~~  
6 ~~it may employ independent legal counsel at the pension fund's expense for the purpose~~  
7 ~~contained herein.~~

8           Sec. 2-602(j) Agents and employees. The board shall have the power to select, employ  
9 and compensate, or cause to compensate from time to time such consultants, accountants,  
10 actuaries, attorneys, investment counsel, and other agents and employees as they may deem  
11 necessary and advisable in the proper and efficient administration of the plan. The board may  
12 authorize one or more of its members or any agent to make any payment in its behalf, or to  
13 execute or deliver any instrument, including a requisition for funds for benefit payments. ~~If the~~  
14 ~~board of trustees so elects, pursuant to F.S. §§ 175.291 and 185.29, it may employ its own~~  
15 ~~actuary.~~

16           Sec. 2-602(l). Duties of the secretary. It shall be the duty of the secretary to keep  
17 minutes and records of the acts, proceedings or hearings of the board under this plan, separate  
18 and apart from minutes of the city commission meetings, ~~and these shall be maintained in the~~  
19 ~~office of the clerk of the city commission.~~ The secretary of the board of trustees shall keep a  
20 record of all persons receiving retirement payments under the provisions of this chapter, in  
21 which shall be noted the time when the pension is allowed and when the pension shall cease  
22 to be paid. In this record, the secretary shall keep a list of all police officers and firefighters  
23 employed by the municipality. The record shall show the name, address, and time of

1 employment of such police officer or firefighter and when he or she ceases to be employed by  
2 the municipality.

3 Sec. 2-602(o). Professionally qualified independent consultant.

4 (1) At least once every 3 years, the board of trustees shall retain a professionally  
5 qualified independent consultant who shall evaluate the performance of any existing  
6 professional money manager and shall make recommendations to the board of trustees  
7 regarding the selection of money managers for the next investment term. These  
8 recommendations shall be considered by the board of trustees at its next regularly scheduled  
9 meeting. The date, time, place, and subject of this meeting shall be advertised in the same  
10 manner as for any meeting of the board.

11 (2) For the purpose of this subsection, the term “professionally qualified  
12 independent consultant” means a consultant who, based on education and experience, is  
13 professionally qualified to evaluate the performance of professional money managers, and  
14 who, at a minimum:

15 a. Provides services on a flat-fee basis.

16 b. Is not associated in any manner with the money manager of the pension  
17 fund.

18 c. Makes calculations according to the American Banking Institute  
19 method of calculating time-weighted rates of return. All calculations must be made net of  
20 fees.

21 d. Has 3 or more years of experience working in the public sector.

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1 **Section 2.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or  
2 unconstitutional by any court of competent jurisdiction, then said holding shall in no way  
3 affect the validity of the remaining portions of this ordinance.

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5 **Section 3.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such  
6 conflict hereby repealed.

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8 **Section 4.** This ordinance shall be effective immediately upon its adoption.

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10 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

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PAULA M. DeLANEY, MAYOR

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16 ATTEST:

Approved as to form and legality

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KURT M. LANNON  
20 CLERK OF THE COMMISSION

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MARION J. RADSON  
CITY ATTORNEY

21 This Ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

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23 This Ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

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hauck:pension:cbot ordinance revisions