

**City of Delray Beach**  
**Police and Firefighters' Retirement System**  
**Minutes of**  
**June 16, 2010**

Members: Chief Ralph Phillips, Sgt. Brady Myers, Lt. Joe Liguori, FF Justin Caruso, Asst. City Manager Doug Smith, Mel Sacharow

Anne Woods, Plan Administrator                      Steve Cypen, Board Counsel  
Karen Schell, Pension Administrator

Absent: Commissioner Adam Frankel, Chief Greg Giaccone, Lt. John Palermo

Guests: Mike Welker, Bogdahn Consulting; Terrill Pyburn, Asst. City Attorney; Lt. James Tabeek, Chief John Tomaszewski, Bill Adams (Lt. FD Retired); Dave Drucker

Lt. Liguori, Chairperson, called the meeting to order at 1:07pm. Roll call was taken of members and guests.

1. Unfinished Business:

a. Lt. Liguori, Chairperson

i. Nomination/Election of Board Secretary (Tabled – May 19, 2010 Meeting) - Chief Phillips nominated Mr. Sacharow for the position of Board Secretary. FF Caruso made a motion to close nominations. Chief Phillips seconded the motion. None opposed. By acclamation, Mr. Sacharow was elected to serve a two (2) year term as Board Secretary.

ii. Guidelines for Certification Payout – The ongoing litigation was finalized, and actuarial calculations as of May 1, 2010 were prepared and accepted by the City. The three (3) components taken into consideration were the calculation of a lump sum payout, member contributions owed and recalculation of the monthly pension benefit. A notification letter will be sent to explain each individual circumstance, and to inform the retiree of their contribution owed. The contribution will be deducted from the lump sum payout.

Mr. Sacharow made a motion to adopt the actuarial calculations as presented and distribute according to the courts decision. Sgt. Myers seconded the motion. After further discussion, Sgt. Myers withdrew his second.

Mr. Sacharow made a motion to adopt the actuarial calculations as presented and distribute the certification payment according to the courts decision. The June and July pension benefit will be distributed as presented, but May benefit will be prorated. Mr. Smith seconded the motion. None opposed.

iii. Approve/Execute 2009 Annual State Report – Lt. Liguori stated that Foster & Foster had completed Page 6a and the report was now ready for submittal to the State. Sgt. Myers made the motion to approve the 2009 Annual Report and authorize the Chairperson to execute the document. Mr. Sacharow seconded the motion. None opposed.

2. New Business:

a. Lt. Liguori, Chairperson

i. Discussion of Social Security Life Income Option – There are pension plans that allow employees to elect, prior to their retirement date, an option that allows for a larger benefit in the years between the time or retirement and the eligible time to receive Social Security. At the time of retirement, the employee would make an irrevocable decision pertaining to the exact date in time in which he would choose to receive social security. The selection of this option is neutral. After lengthy discussion, the decision was not to offer this option.



ii. Certification Overpayments (Bill Adams, Pamela Garcia, John Hansen, Katherine Hoecherl and John Tomaszewski) – The declaratory judgment, in favor of the retirees, stipulated that retirees who retired prior to March 4, 2004 were entitled to have certification earnings included into their pension calculation. At that time (2004), the third party administrator (PRC) received instructions that when applicable, certification earnings should be included when calculating a pension benefit. Unfortunately, there were five (5) employees who retired after the March 2004 who had certification earnings included into their pension benefit calculation.

Lt. Liguori stated that after conferring with the Board's Counsel, it was agreed that the court's ruling states that anyone who retired after the March 2004 date would be ineligible to received the certification benefit; and it would be necessary for the retiree to refund the monies. Lt. Liguori suggested that after actuarial calculation have been prepared; the affected retirees will be notified of the revised monthly pension benefit and the amount of refund (minus contributions).

The trustees heard rebuttal from Chief Tomaszewski and Bill Adams (Lt., FD retired). Ms. Schell stated that contributions were received from Bill Adams, Pamela Garcia, Katherine Hoecherl and John Tomaszewski; but John Hansen received the benefit but paid no contribution.

Mr. Cypen stated that the Plan has a provision stating that if need be, the Board is legally obligated to correct pension benefits.

Sgt. Myers stated that in the past, the City provided misinformation to five (5) persons who are presently or futuristically going to receive a pension benefit, and the Board decided not to correct those errors. At that time, PRC was under contract to Board to provide a service that should now be upheld by the Board.

Mr. Cypen stated that the difference in the scenarios is that the persons who were misinformed by the City were ineligible to retire but cannot be forced to return to work (legal estoppel). He suggested that Board proceed with authorizing the actuary to prepare the calculations that would then determine the magnitude of the situation. Should the affected persons think that they were not represented during the litigation, they could then take legal action.

The trustees agreed to authorize the actuary to prepare an analysis to determine the following - what amount would need to be returned, and what the benefit would have been without certification being included.

iii. Consideration of Increase of Retainer for Legal Counsel – Lt. Liguori stated that Mr. Cypen, Board Counsel made a request to increase the monthly retainer to \$4000. Sgt. Myers requested that a comparison survey be made with the surrounding cities (WPB, Boca Raton and Boynton). After discussion, it was agreed to survey other cities. Lt. Liguori stated that the upcoming FPPTA conference would be a good source for information. This item will be placed on the next agenda.

iv. Approve Temporary Office Assistance and Storage Facility of Plan Documents – After discussion, Mr. Sacharow made a motion to approve the request for temporary office assistance. Sgt. Myers seconded the motion for discussion. Mr. Sacharow withdrew his motion.

Mr. Sacharow made a motion to approve the request for temporary office assistance with a cap of no more than 20 hours a week. No second.

Mr. Sacharow made a motion to reimburse Anne Woods, Plan Administrator for the temporary office assistant for no more than 20 hours a week. Sgt. Myers seconded the motion for discussion.

Chief Phillips stated that the Board should have been informed prior to the person being hired. Lt. Liguori stated that Ms. Woods did not ask for reimbursement, and if reimbursement is not approved she is willing to incur the cost.

Sgt. Myers made a motion to reimburse Anne Woods, Plan Administrator, for the consolidation of records with a maximum of 20 hours per week with a cap of \$1000. Mr. Sacharow seconded the motion. None opposed.

3. Reports:

a. Steve Cypen, Board Attorney

i. Status of Pending and Potential Litigation Matters –

Certification – The case has been concluded.

99-1, Overtime - As yet, the court has not ruled, and the State did not ask for oral argument.

Smith Barney – Oral argument on the appeal has been set for July in Atlanta, GA.

Benchmark Financial – Mr. Cypen stated that he had approved the motion for summary judgment and is still waiting for the judge to schedule a hearing date.

b. Mike Welker, Bogdahn Consulting

i. FISCO Update – At the May 19, 2010 meeting, the Board voted to retain FISCO as a non-core manager to compliment ICC (fixed income). On May 20<sup>th</sup> their performance experienced a downturn that resulted in a change in their strategy process. Bogdahn is now recommending that the Board consider not funding the product. Chief Phillips made a motion to no longer consider funding the FISCO product at this point in time based on the recommendation from Bogdahn Consulting. Mr. Sacharow seconded the motion. None opposed.

Mr. Welker stated that with funding of the FISCO product no longer a consideration. The \$5 million allocation should be as follows: Lazard 75% and PIMCO 25%. Chief Phillips made a motion to allocate the monies that were in discussion to fund Lazard, PIMCO and FISCO would be as follows – remove FISCO from the allocation and invest 75% with Lazard and 25% with PIMCO. Sgt. Myers seconded the motion. None opposed.

ii. Investment Manager Agreements: Both the Abbey and Lazard contracts are in negotiation. There is no contract necessary for the PIMCO account.

iii. Portfolio Performance Review – The weighted fee of the overall fund: 0.50%

Portfolio Value as of April 30, 2010: \$108,275,541

	Market Value (\$)	Allocation (%)
Domestic Equity	51,348,987	47.4
International Equity	15,131,985	14.0
Domestic Fixed Income	25,295,215	23.4
Real Estate	7,009,791	6.5
Timber	6,193,414	5.7
Cash Equivalent	3,296,148	3.0

Total Fund Portfolio (Net) Performance for: 1<sup>st</sup> Quarter 6.25%, Policy 3.61%, Difference 2.64%  
Fiscal Year to Date (Gross): 8.0% compared to Index 8.3%

DG Capital Status – Portfolio up 11% compared to benchmark of 10.64%, outperformed by 54 basis points. The current market cycle seems to favor their investment style. No recommendation for change.

Delaware Investments Status – Since inception (December 2007) performance is down 8.7% and the market is down 9.15%. Futuristically, they are well positioned for stocks that are fundamentally positioned and have good earnings. Bogdahn will continue to closely monitor the performance.

#### Continuation of Item 1 – Unfinished Business

iii. Approve/Execute 2009 Actuarial Report – Lt. Liguori stated in order to receive the premium tax monies the State has to be in receipt of the Plan Audit, Actuarial Report and the Annual Report. He requested that due to the time restraint the Board approve the report as presented. Mr. Cypen stated that he had spoken to Brad Heinrichs (Foster & Foster) regarding the comparison of the percentage of annual payroll and percentage of contributions it is unfair not to include the DROP. He suggested that the Board request that Foster & Foster provide a cover letter addressing the effective percent of payroll funding requirements to include payroll for members participating in the DROP.

Sgt. Myers made a motion to approve the Actuarial Report as presented and request that Foster & Foster provide the DROP payroll cover letter. Mr. Sacharow seconded the motion. None opposed.

Sgt. Myers stated that when he attended the DOR Trustee School one of the topics discussed was when an outside entity is requesting either a police/fire detail they should be responsible for paying the entire cost of that employee which should include pension costs. Chief Phillips stated that when the contracts are negotiated those issues are addressed. Lt. Liguori requested that Chief Phillips investigate this issue and provide his findings to the Board at the next meeting.

Sgt. Myers stated that another topic discussed was non-owner vehicle insurance. Mr. Cypen stated that he has always advised that a Board should have a liability policy that covers non-owner vehicles. This item will be placed on the next agenda.

Board Policy – Lt. Liguori requested that trustees who attend conferences prepare a written summary outlining the topics discussed and important facts relating to pension matters. The summaries are to be sent to the plan administrator.

Mr. Cypen leaves the meeting at 3:40pm.

Lt. Liguori proposed that the Board consider purchasing each trustee two (2) polo shirts at \$36.50 each. Mr. Sacharow made a motion to purchase each trustee two (2) polo shirts. Chief Phillips seconded the motion. Mr. Smith – No. Motion passes.

#### 4. Expenditures:

##### a. Warrants 1432 through 1442:

After discussion, Warrant 1438 (Lt. Liguori monthly cell phone reimbursement) was changed from \$115 to \$70 per month. Mr. Sacharow made a motion to waive the reading and approve payment of the warrants. Mr. Smith seconded the motion. None opposed.

-Warrant 1432: Approve Normal Retirement Benefit Enhancements – August 2010 for: Richard Ackerman (\$6,693.50), Robert Brown (\$2,644.11), Alfred Damato (\$2,751.82), James DeCarie (\$2,757.71), Kenneth Herndon (\$2,698.07), Thomas Judge (\$3,083.63), Edward Meissner (\$5,084.48), Vincent Mintus (\$3,332.43), Jeffrey Rancour (\$3,494.48), David Ringersen (\$3,459.62), Richard Senff (\$3,001.27), Joseph Weitman (\$4,119.30)

- Warrant 1433: Approve Normal Retirement Benefit Enhancements – September 2010 for: Robert Brand (\$4,764.50), Dennis Morley (\$2,679.33), Thomas Nabors (\$4,087.30)
- Warrant 1434: Barry S. Balmuth, PA (\$2,192.50, Invoice #13584 – Benchmark Litigation)
- Warrant 1435: AT&T (\$115.55, Account #5110450), FedEx (\$63.24, Account #210739513, Invoice #710082987)
- Warrant 1436: Lazard Asset Management (\$7,007.84, Invoice #1657920)
- Warrant 1437: Platinum Plus for Business (\$2,071.50, Account #1505 – 3 Hotel Reservations at Double Tree at \$297/each for Justin Caruso, Brady Myers and John Palermo. FPPTA Conference Registration at \$500 and Hotel Deposit (Naples Grande Resort) \$170.50 for Doug Smith
- Warrant 1438: Joseph Liguori (\$70 Commence Monthly Service Charge for Cell Phone)
- Warrant 1439: Approve Normal Retirement Pension Benefit for Gayl Nye (\$1,123.52 to Commence Effective June 1, 2010)
- Warrant 1440: Approve Normal Retirement Pension Benefit for Alexander M. Batista (\$1,004.79 to Commence Effective August 1, 2010)
- Warrant 1441 Travel Reimbursements – Adam Frankel (\$162 NCPERS Conference, May 1-6, 2010), Brady Myers (\$68.97 NCPERS Conference, May 1-6, 2010) Brady Myers (\$197.96 FSU/State Conference-Tallahassee, May 2010)
- Warrant 1442: Approve Certification Pay Lump Sum Disbursements for FD Retirees – Bateman (\$12,587.70), Andrews (\$5,174.58), Bonelli (\$14,234.90), Brown (\$4,170.73), Buce (\$3,804.97), Carafano (\$8,454.55), Cato (\$4,933.37), Firehock (beneficiary of Peter Firehock (\$638.64), Fitzer (\$8,137.94), Garito (\$4,688.80), Haas (\$5,255.92), Hardin (\$19,123.81), Hendricks (\$4,767.85), Kopel (\$3,756.20), Lee (\$4,755.58), Mook (\$3,831.22), Moreland (\$9,252.94), Pangburn (\$11,144.30), Schofield (\$7,049.86), Searles (\$6,069.40), Straghn (\$10,082.75), Tillson (\$7,289.58), Vaughn (\$26,399.15), Wigderson (\$5,139.53), Yoder (\$2,591.13)

Chief Phillips asked a question for informal discussion regard the possibility of adding a pension retiree as a trustee. A discussion ensued where the legal restrictions on trustee appointments and elections were explained. It was concluded that a retiree might apply to be considered by the City Commission as a citizen appointee.

Sgt. Myers made the motion to adjourn the meeting at 3:50pm. Commissioner Frankel seconded the motion. None opposed.

NOTE for Information (not an agenda item): At the May 19<sup>th</sup> meeting, Mr. Heinrichs reviewed his letter dated May 18, 2010 on the analysis he was asked to prepare regarding the Early Retirement Incentive. At that time, he was asked to prepare an additional analysis that determined the estimated impact on the current UAAL associated with the funding requirements as a result of the 5 participants who received benefits at their 20<sup>th</sup> anniversary of employment rather than their otherwise Normal Retirement Age. The results of the analysis, determined as of October 1, 2008 are as follows (Letter dated June 9, 2010):

	<u>Without 'Special Deal'</u>	<u>With 'Special Deal'</u>
Unfunded Actuarial Accrued Liability (UAAL)	\$48.6 million	\$49.0 million
Required City Contribution	38.6%	38.7%

Approximately .0.9% of the 2008 UAAL is attributable to the 'special deals' given by the City to these 5 Participants; about 0.1% of payroll (or \$26,000) is the estimated funding impact for the fiscal year ending September 30, 2010, representing about 0.1% of the City's total obligation for the year.