

City of Delray Beach
Police and Firefighters' Retirement System
Minutes of
May 25, 2011

Members: Lt. John Palermo, Chief Anthony Strianese, Lt. Joseph Liguori, FF Justin Caruso, Chief Gregory Giaccone, Commissioner Adam Frankel and Allan Kirschenbaum. (Sgt Brady Myers arrived at 12:27 p.m.; left at 2:10 p.m.)

Stephen Cypen, Board Counsel Karen Schell, Pension Administrator

Absent: Asst. City Manager Doug Smith

Guests: Mike Welker, Bogdahn Consulting; Brad Heinrichs, Foster & Foster; Lt. James Tabeeek, Fire Department; David Boyd, Finance Department; Milena Walinski, Finance Department and James Smith, Delray Beach Resident.

Lt. Liguori, Chairman, called the meeting to order at 12:00 p.m. Roll call was taken of members and guests.

Lt. Liguori amended the agenda to add item 1. h. Umbrella Policy to the insurance to the trustees while traveling and 1. i. Logistics on the overtime benefit for the Police Department.

The following minutes will reflect the agenda items in order of commencement.

2. Reports:

a. Steve Cypen, Board Counsel

i. Status of Pending and Potential Litigation Matters

Mr. Cypen stated he delivered a check to the Board in reference to the McAloney estate settlement. Mr. McAloney was survived by a brother, but decided to leave 75% of his estate to the Pension Fund. He had a condominium worth approximately \$30,000.00 along with other assets. The settlement ended up being a contribution of \$40,000.00 to the Police and Firefighter's Pension Fund.

Mr. Cypen stated he was successful in retrieving the overpayment of \$ 1,675.70 from the estate of Mr. Fenton Moore. This was forwarded to the attention of Plan Administrator.

Mr. Cypen indicated Smith Barney is moving along in arbitration. A conference call is scheduled for next week among all attorneys involved.

1. New Business:

f. Commissioner Frankel – Scheduling Procedure for Pension Board Meetings

Commissioner Frankel stated the meeting was originally scheduled for May 18th and moved to today at the discretion of the Chairman. He felt there was no communication with the trustees as far as convenience with the rescheduled date. Courtesy in checking with everyone's schedule would have been appreciated.

Lt. Liguori indicated the procedure followed is the first people consulted for availability for any meeting is Steve Cypen and the vendors as accommodation between the three is sometimes very difficult.

Lt. Palermo suggested after checking with the vendors, sending an outlook invite on the calendar and everyone can respond with any conflicts.

Lt. Liguori requested, as a courtesy, if one cannot make future meetings, please send an e-mail to Anne.

Commissioner Frankel also commented he was not sure if this meeting was properly noticed; it had last week's date posted on the agenda. Mr. Cypen affirmed that it had.

d. Chief Strianese – Discuss Providing a Credit Monitoring Service for Plan Members Affected by Identity Theft

At this time Lt. Liguori gave a brief recap to the new trustee, Mr. Kirschenbaum of what had transpired with the identity theft.

Chief Strianese stated through the initial investigation it is only police and fire pension members who have been affected. Members from the Police Department are seeking either from the Pension Board or the City some sort of identity theft protection for a period of time to be determined.

Mr. Cypen didn't feel the Pension Board could not pay for something like that; however, the City could if they wish. The Board didn't do anything wrong; the vendor did.

FF Caruso questioned if we have any official proof indicating what had actually happened and by whom?

Chief Strianese commented it is still an active investigation which could take 18 months. Do we wait two years before taking further action? It's quite obvious who the vendor is.

Chief Giaccone questioned if the vendor had any liability insurance as part of the contract? Could we have recourse through their insurance company?

Mr. Cypen responded if we could prove it was their fault and they were negligent, yes. It also depends whether it's an occurrence policy or claims made policy. An occurrence policy stays forever until the claim is made; a claims made policy is if it is made during the time of the policy report.

Lt. Liguori requested the Plan Administrator to check into the policy.

Mr. Cypen commented if it is system wide, the insurance will not be adequate to cover everyone. He also questioned what the damages would be. If one gets their money back, there's no loss; loss of interest is very minimal. In today's world, interest is not worth anything.

Lt. Liguori questioned if we could make a claim on conjecture?

Mr. Cypen stated all we have to say is we have reason to believe that this is what happened. If they breached the contract it's the Board. That doesn't get them any damages; it gets them nothing. Let's see what the policy is and give me the authority to write the letter if it's appropriate.

h. Umbrella Policy

Lt. Liguori stated the question came up whether if a trustee rented a vehicle for a conference, was it covered by the City's policy. A letter received by Frank Babin indicated advisory board members were covered during official duties or travel; controversy is we don't believe this board is an advisory board but an independent Board and may not be covered by the City's policy.

Lt. Palermo stated if trustees rented a car, went to the seminar, and went back to the hotel and later that evening to dinner; one could argue it is not official business. Are we not covered at that point?

Mr. Cypen stated he would argue it is part of business. You went with authority, its part of education and the Board is paying for it as part of the responsibility as trustee. Coverage would be for your own car or a rental.

Chief Strianese moved to purchase an umbrella policy, seconded by Commissioner Frankel. Said motion passed unanimously.

e. Lt Liguori – Database Reconciliation of City Addresses (Re: 175/185 Premium Tax Revenue)

Lt. Liguori commented the Board may want to use some due diligence regarding the updates on the database the State has for which they base the 175/185 money. He recently received an updated address listing for the past three years. There is no way of verifying city addresses on the State's database. Lt. Liguori stated he has been in touch with Jennifer Kerr who did a comparison for Lakeland which resulted in a 60% spike in their 175/185 moneys. From a fiduciary responsibility as a trustee, we should make sure our members are receiving every benefit they can. He suggests doing an RFP to see who comes back with what prices.

Mr. Heinrichs stated the amount of work involved will be directly correlated to the medium in which information is received. If successful, the costs associated with the corrections will probably be dwarfed by the extra money the Board receives forward.

Lt Liguori feels the Board would accomplish this quicker with a little less bureaucratic feelings doing it themselves. Ultimately the City will pay for it as it's an expense to the Plan.

FF Caruso moved to pursue an RFP for 175/185 database correlation, seconded by Sgt. Myers. Said motion passed unanimously.

b. Brad Heinrichs, Foster & Foster – 2010 Actuarial Report

Mr. Heinrichs reviewed the 2010 Actuarial Report indicating the report develops the funding requirement for fiscal year 2012. The projected cost to the City decreased from 44.1% to 43.2%. (Non-DROP pensionable payroll.) The actuarial experience for the year was unfavorable due to investment performance.

Mr. Cypen requested to have page 1 illustrate the non-DROP payroll and DROP payroll by column.

Mr. Heinrichs stated that 46.8% is the total cost needed between the City and State 175/185 money. These numbers reflect the most recent changes in the plan being a 3% increase in contributions from the firefighters and the increase in disability benefit from 60% to 61%. Payroll has increased approximately \$800,000 over the last year; projecting no change in pension costs for next year. The plan as a whole had a \$7.6 million actuarial loss in the past year due to investment returns.

Mr. Heinrichs suggested having the amortization term shortened by making larger payments. If payments are paid as currently scheduled, the unfunded liability will increase over the near term, before it drops. Payments are scheduled over a 30 year period and paid as a level percentage of payroll (not as a level dollar like your mortgage). Payments are currently lower than the interest on the unfunded liability. In the future the Board may want to start paying more if possible.

Mr. Heinrichs continued reviewing the COLA account. The police account is basically "0"; we're receiving approximately \$140,000 each year. In approximately three years, the police may be able to add the 1.5% COLA that was given previously as a one-time increase.

The unfunded liability is currently 61.73% in the amount of \$75,372,569. This is the actuarial value of assets (unrecognized investment losses) over the actual accrued liability (projections of salary that have not occurred).

Lt. Palermo moved to approve the Actuarial Report with the corrections pointed out, seconded by Chief Giaccone. Said motion passed unanimously. (Commissioner Frankel left the room.)

i. Logistics on Police Department Overtime

Sgt. Myers indicated Ms. Schell has prepared letters to go out to all the active and retired police members for collection of contributions owed for 25 hours of overtime.

Ms. Schell stated Glenda Riveria, Payroll Administrator, did research with several other cities and 99% do it manually. It will be completed manually. For this year, the Finance Department questioned if the hours will remain at 25 or increase to 50. This will need to be known in advance to have contributions collected before the fiscal year ends; the last paycheck in the month of September.

Mr. Heinrichs stated for this coming year the benefit will also be at 25 hours.

After a brief discussion, Sgt. Myers moved to have Mr. Heinrichs start the benefit recalculations process for overtime benefits for retired members, seconded by Commissioner Frankel. Said motion passed unanimously.

c. Lt. Liguori – Actuarial Impact Statement – Ordinance 15-11

Ordinance 15-11 is in reference to firefighter's contributions increasing an additional 3% and a change in the disability benefit from 60 to 61%. Lt. Liguori indicated this was as a result of an agreement between the City and the Fire Union. His concern is the validation for the invalidation of the 1993 agreement. The 1993 agreement requires all parties agree to any changes in benefits or to the pension plan. To his knowledge only two parties have agreed to this change.

At this time Lt. Liguori briefed the new trustee, Alan Kirschenbaum, on the events of this subject stating until 1993 the City was using the premium tax moneys to reduce their contribution. They stated they would be able to give the members a better pension benefit than they would normally receive without the contribution. The Board filed a lawsuit against the City as they determined it was not proper use of extra benefits. The City and Unions negotiated and ended with this 1993 agreement whereby a waiver was issued on suing for the back money (approximately \$16 million), we will go forward and use the money for extra benefits. Both Unions agreed that the extra benefit would be a cost of living adjustment.

Lt. Liguori indicated the increase in benefits is not part of the 1993 agreement which is a change in benefit and must be agreed to between all parties. He questioned if the Board approves the benefit change, would this not validate the 1993 agreement?

Mr. Cypen stated that Board would invalidate the agreement by amending the Plan, as long as all parties agreed to it.

Commissioner Frankel moved to approve this, seconded by Lt. Palermo for discussion.

Chief Giaccone questioned if this was absolutely necessary; what is the Board preserving by doing this versus not doing it?

Mr. Cypen responded, because the Board's position is that the agreement is still valid. You could say it's premature and until the other four parties sign it, it's not an issue. However, Mr. Cypen feels it sends a message that Board is going to approve whatever the Unions and City agree to.

Lt. Palermo stated in the summary of the lawsuit, the City, the Fire Union and the PBA agree pension benefits will not be subject to the collective bargaining process. How are we as a Board allowing collective bargaining to come into pension matters when it says it will not be subject to it?

Mr. Cypen stated if the parties signed an agreement saying we agreed we will not bargain collectively pension matters, then says we want to modify that where they can bargain a pension matter and the Board agrees to it, the Board is modifying the clause to that pension matter. You could say you will

not implement anything until that clause is literally complied with. Not just fire union and City for fire benefits; police and the City for police benefits, but all sides.

Lt. Palermo commented that the police union's position is that pension matters are not subject to collective bargaining; the fire union's position is that it is subject. He feels as a Board, we should say, until this issue is resolved in compliance with that language, we don't take a stand.

Mr. Cypen read from the 1993 agreement, "The City, IAFF and PBA agree that pension benefits will not be subject to collective bargaining process in the future and that this agreement shall be binding on their successors and assigns; provided, should premium tax revenues cease, the retirement benefit enhancement referred to in paragraph 3, above, will be subject to reopener negotiations."

Mr. Cypen continued reading the appellate court's opinion; clearly the parties knew when the agreement was negotiated and executed that the law could change, and that the continued availability of premium tax revenue is a matter of legislative grace that could be withdrawn by subsequent legislative action. Indeed, the premium tax revenue is state tax revenue and the Legislature has sole authority to decide how those funds are to be spent. The City cannot bargain away the Legislature's appropriations power. (Then it cites some cases.) Furthermore, receipt of the premium tax revenue is contingent upon the Division determining that the Plan is in compliance with the requirements of chapter 185. Because the right to receive the additional annual benefit increase is dependent on continued legislative appropriations and the Plan's compliance with current law, it can be fairly characterized as either an expectant right or a contingent right. If the contingencies materialize, the right becomes vested.

Mr. Cypen commented the Court didn't reach the issue of whether anybody can bargain a right. Mr. Cypen continued stating the Board has two choices; one, consider the amendment and reject it; or if the Board approves it, approve it upfront or at the end. In other words, say it's approved now, provided everyone else that is suppose to approve it, approves it; until everyone approves it, we will not decide it.

Commissioner Frankel withdrew the motion.

FF Caruso moved to approve the amendment, contingent upon approval of all parties in agreement, seconded by Lt. Palermo. Said motion passed unanimously.

a. Lt. Liguori – 2010 State Annual Report

Lt. Liguori indicated this report must be sent to the State as soon as possible to meet the deadline in order to receive moneys we are entitled to.

Commissioner Frankel moved to approve the Annual Report, seconded by Chief Strianese. Said motion passed unanimously.

2. Reports:

b. Mike Welker, Bogdahn Consulting

i. Quarterly Performance Update (April Flash Report)

Mr. Welker gave a brief review of what his consulting firm does for the benefit of the new trustee, Mr. Kirschenbaum, stating they help with the investment policy, work on the asset allocation, bring managers in for different styles and then monitor relative to the appropriate benchmark and overall policy from an index level and universe stand. He continued reviewing the asset allocation vs. the target allocation. There is a slight overweight in domestic equity; however this and everything else is within the target ranges.

Mr. Welker continued reviewing the financial reconciliation fiscal year to date. As of March 31, 2011 the market value is \$118 million dollars; return on investment is \$11 million; for the quarter the plan made \$4.7 million (4.08% return).

Three things looked at from the consultants aspect in the policy statement; first, did we meet our actuarial number (8.1%)? Second, did we exceed the policy? Third, in looking at it from the total fund and the manager level, is the universe ranking.

The Flash report for the month of April illustrates at total fund of 2.47% vs. the policy of 2.37%.

At this time, Mr. Welker commented, last year the Board hired the PIMCO diversified income; a global bond fund which has been a good investment; up 6.29%, ranking in the 24th percentile. In the past 9-12 months, corporate spreads have come way down relative to treasuries. He commented the Board is not receiving much for the riskier investment it is taking. Mr. Welker suggests replacing this with a different global bond manager; Templeton Global Total Return Fund. This fund is approximately 90% sovereign (treasuries with international countries). Mr. Welker will forward further information for discussion at the next meeting.

ii. Review of Large Growth Allocation

Mr. Welker indicated his Large Cap Growth search has different managers. At the last meeting, he mentioned it may be a good time to start looking at quality type growth managers who have lagged in the past year; their style has been out of favor. If this is timed right, with the style being out of favor, we now enter into a market that will reward more of the quality name that are trading at decent evaluation. (Possibly purchase something low.)

In this search, the managers who have a large cap quality focus are Atlanta Capital, Montag & Caldwell, Sawgrass and Wedgewood. Brown Advisor is a little more opportunistic, a little more flexible and may go down to the midcap a little; they will be aware of the benchmark but not on it. Heritage All Cap is a true all cap portfolio.

Mr. Welker briefly reviewed and commented on the proposed manager's evaluations.

Commissioner Frankel moved to interview Sawgrass, Brown and Heritage, seconded by Chief Giaccone. Said motion passed unanimously.

2. New Business:

g. Lt. Liguori – Annual Performance Evaluation for Plan Administrator

Lt. Liguori requested all members to rate Anne on her performance as a precursor to offering her a raise. Based on the response, total points came to 58 out of a possible 60. For the most part everyone is satisfied with the work she does. Anne may be considered part time; however, Lt. Liguori feels she definitely puts in more than 40 hours a week. In a survey from other surrounding cities for like plans, similar money, similar people, the lowest figure illustrated for administrator's salary is \$108,000 (Full Time). Anne's current salary is \$36,000 annually plus \$500 per month towards her IRA. Her last raise was 3-4 years ago.

After a brief discussion, Lt Palermo moved subject to Anne's willingness and the attorney's approval, saying we can do it, that we reclassify her status from part time to full time and increase her salary by 20%, seconded by Commissioner Frankel. Said motion passed unanimously.

Lt. Liguori will follow up with Anne and Mr. Cypen.

3. Old Business: None

4. Input from Active and Retired Members of the Plan: None

5. Expenditures:

a. Approve Warrants 1568 through 1580:

Lt. John Palermo made the motion to waive the reading and approve payments of warrants 1568 through 1580, seconded by Commissioner Adam Frankel. Said motion passed unanimously.

- i. Warrant 1568: Approve Normal Retirement Benefit Enhancements for P.D. (1% enhancement) effective July 1, 2011 – Lennis Gillard (\$5,207.13), Timothy Hall (\$3,813.29), Gerald Pitocchelli (\$5,348.99), Edward Robinson (\$3,898.90)
- ii. Warrant 1569: Approve Normal Retirement Benefit Enhancements for F.D. (2.5% enhancement) effective July 1, 2011 – Elario Garito (\$2,897.75), John Hansen (\$5,049.44), Charles Hardin (\$5,452.10), Andrew Heithaus (\$2,368.26), Joseph Kopel (\$3,395.86), Frank Ryncarz (\$4,423.38), Wayne Yoder (\$4,000.34)
- iii. Warrant 1570: Approve DROP Retirement Benefit Enhancement for F.D. (2.5% enhancement) effective July 1, 2011 – Benjamin Knabb (\$6,800.80), Joseph Liguori, Jr. (\$7,491.56)
- iv. Warrant 1571: Approve Final Annual Pension Benefit for Kurtis Firehock (\$7,904.82 – beneficiary of Peter Firehock)
- v. Warrant 1572: Davidson, Jamieson & Cristini, P.L. (\$2,000 Preparation of 2010 Annual Report, Invoice #J18770 and \$7,500 Final Payment for Preparation of the Audit of Financial Statements for Year Ended September 30, 2010, Invoice #J18769)
- vi. Warrant 1573: Approve Per Diem for FPPTA Annual Conference, June 26-29, 2011 for – Brady Myers (\$156.46) and Joseph Liguori (\$156.46 per diem only)
- vii. Warrant 1574: FedEx (\$107.19, account #2800-5313-9, Invoice #748215315); AT&T (\$97.20, account #5110450)
- viii. Warrant 1575: Approve Investment Management Fees for Quarter Ending March 31, 2011 -

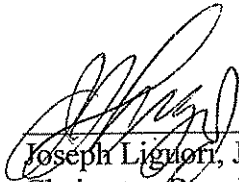
Delaware Investments	\$22,114.00	Salem Trust #80105776 (Inv 03312011ASR3331)
Wentworth Hauser & Violich	\$10,921.00	Salem Trust #80105563
Lazard Asset Mgmt	\$11,067.27	Salem Trust #80106366
RBC Global (Voyaguer)	\$21,911.28	(assets not held at Salem Trust)
Mutual of America	\$ 1,875.62	Salem Trust #80105855 (TIPS/CIPS)
- ix. Warrant 1576: Platinum Plus for Business (\$2,625.88 a/c 1505) for the following charges:

Manhattan Trophy – Service Plaque for Mel Sacharow	\$54.73
NCPERS Conference-Hotel Accommodations/Parking for Adam Frankel	\$607.94
NCPERS Conference-Hotel Accommodations/Parking for Brady Myers	\$911.91
State Annual Conference DOR-Airfare for Brady Myers	\$465.40
State Annual Conference DOR-Airfare for John Palermo	\$465.40
Gulfstream Travel-Agent Fee	\$50
- x. Warrant 1577: Foster & Foster Inc. (\$16,628 Invoice 2055-Preparation of Actuarial Impact Statement and October 1, 2010 Actuarial Valuation and Report)
- xi. Warrant 1578: Barry S. Balmuth, P.A. (\$521.40, Invoice 13774-Benchmark Financial Litigation)
- xii. Warrant 1579: Approve DROP Retirement Pension Benefit effective retroactively May 1, 2011 for Paul Shersty (\$4,734.25)
- xiii. Warrant 1580: Approve DROP Retirement Pension Benefit effective retroactively May 1, 2011 for Michelle Murphy (\$5,621.13)

Commissioner Frankel moved to adjourn the meeting at approximately 4:00 p.m., seconded by Lt. Palermo. Said motion passed unanimously.

City of Delray Beach Police & Firefighters' Retirement System

The undersigned are the Chairman and Secretary of the Police and Firefighters' Retirement System, Board of Trustees, and the information provided herein are the Minutes of the Meeting of said body for May 25, 2011 which minutes are formally approved and adopted by the Police and Firefighters' Retirement System, Board of Trustees on June 15, 2011.



Joseph Liguori, Jr.
Chairman, Board of Trustees

NOTE TO THE READER: If the minutes that you have received are not complete as indicated above, then this means that these are not the official minutes of the Police and Firefighters' Retirement System, Board of Trustees. They will become official minutes only after they have been reviewed and approved, which may involve some amendments, additions or deletions to the minutes as set forth above.

Copies:	Members of the Board	Acting Finance Director, M. Walinski
	City Commission	Karen Schell, Pension Admin.-Finance
	City Manager, D. Harden	Human Resource Director
	City Attorney, B. Shutt	Police & Fire Departments
	Asst. City Attorney, T. Pyburn	