

**City of Delray Beach
Police and Firefighters' Retirement System
Minutes of
August 19, 2009**

Members: Off. Jeroloman, Chief Phillips, Sgt. Myers, Lt. Liguori, Lt. Tabeek, Commissioner Adam Frankel, Mel Sacharow, Asst. City Manager Doug Smith

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

Absent: Chief Giaccone

Guests: Trey Sizemore, ICMA; Melina Walinski & Glenda Rivera, Finance Department; Brad Heinrichs, Foster & Foster; David Farrand, Esq., Cypen & Cypen; Terrill Pyburn, Asst. City Attorney; Chief Stravino, Fire Department (DROP Retiree); Shelly Weil, Delray Beach Resident

Off. Jeroloman, Chairman, called the meeting to order at 2:11pm. A roll call was taken of members and guests.

Off. Jeroloman suggested that the agenda should be amended to add the City Commission request memorandum received from Asst. City Manager Smith dated August 19, 2009.

1. Approve Meeting Minutes of July 15, 2009

The minutes were reviewed and approved with grammatical corrections made to the original. Mr. Sacharow made the motion to accept the minutes. Chief Phillips seconded the motion. None opposed.

2. Unfinished Business

a. Brad Heinrichs, Foster & Foster: 5 Year Projection: The purpose of the projection was to provide the Board with a conservative range of possible outcomes. Actual future pension costs could easily fall outside of the projected ranges due to differences in plan experience from that which was assumed.

The City contribution rate that will begin October 1, 2009 is 38.7% of payroll. The number was developed based upon assets and demographic information taken as of October 1, 2008. During fiscal 2008 the fund lost 17.68%. The assumption rate was 8.4%. The smoothing value of market losses, as of October 1, 2008 was \$20 million and these losses will factor into the plan over the next four (4) years. For the 2009 investment return a projection (per Mike Welker, Bogdahn) of the total fund return as of 6/30/2009 is -9.0%.

The investment returns assumption over the next 5 years will be the major driver of pension plan costs. Over 50% of the liability in the plan is current retirees. While actual salary increases being below the assumed rate of 6.25% does help to lower funding requirement the impact of these gains is not nearly as great as it would be if the plan had a higher concentration of active members to retirees.

Unfunded Actuarial Accrued Liability (UAAL) – The increasing costs are predominantly due to increasing amortization payment. These payments are mostly made to compensate for prior actuarial losses in the fund.

The normal cost associated with the active employees accruing a year of service remains fairly steady at around 27% of payroll in each projection. The UAAL is 19.2% of payroll and the administrative costs are approximately 1%. The UAAL is paid over a period of 30 years and is approximately \$50 million. Once the UAAL (total 38.7%) has been paid off, the total cost to the fund should be around 27% of payroll, less about 9%, meaning that the City's contribution rate will be reduced to around 18% of payroll.

The projections used in the report did not anticipate a change in the nature of how the State monies will be handled as a result of the pending litigation.

For the purposes of the projection, all future Police hires are anticipated to be age 27 making \$41,000/year and all Fire hires are age 26 making \$50,000/year. This projection is based upon the average profile of all new hires in the last year.

Estimate of Range of Projected 2015 City Contribution Rates as a Percentage of Covered Payroll:

Future Investment Returns Beginning 10/01/2009

	<u>Market Value</u>
0% Return	54.6%-91.2%
8.3% Return	48.4%-74.8%
10% Return	47.0%-71.1%

When asked a question by Lt. Liguori, Mr. Heinrichs stated that if the City were to decide to payoff the UAAL, an option could be to float a bond that would immediately lower the contribution rate. The hope would be that the monies would earn the 8.3% and the city could seek out a creditor who offered a rate lower than 8.3%.

b. Asst. City Manager Smith – City Commission Request for Actuarial Study: Mr. Smith stated that in a memorandum from the City Manager, dated August 19, 2009, he was asked to receive permission from the Board of Trustees' to contact Foster & Foster (Plan Actuary) and request that they provide a report on pension related issues. The City would incur the costs related to the study.

Mr. Heinrichs stated that he would be happy to assist in any way, but he wanted to stipulate that he works for the Board of Trustees and wouldn't want to be put in a situation where a conflict of interest arises. He stated that in other cities the trustees have required that requests be routed through the Board. Also, Mr. Heinrich stated that he would rather not work with the City on a separate contract basis.

Lt. TabEEK stated that the City should submit a formal request to the Board for their review. Upon review, the trustees' would then decide how to proceed.

Mr. Cypen agreed with Lt. Liguori's statement that the 1993 Agreement stipulates that pension benefits could not be changed unless the five (5) parties agreed. Mr. Cypen stated that as the result of collective bargaining, but still subject to the limitations of the contract, pension changes can be imposed.

Mr. Smith stated that he would take the Boards decision back to the City Commission and they could then make their decision accordingly.

3. New Business

a. Brad Heinrichs – Foster & Foster

i. Summary Plan Description: Mr. Heinrich stated that a modification to the Summary Plan Description would cost approximately \$500 (a total rewrite would be approximately \$2000 to \$3000). GRS (previous actuary) will be asked to provide an electronic version of the current SPD.

ii. Discuss Memorandum Received from Joe Safford, Finance Director – FY2010 City Contribution to the Police/Fire Pension Plan (dated July 27, 2009): Mr. Safford requested that the plan actuary work with the City to seek clarification and reconsideration of the annual required City contribution being displayed in the annual report as a percentage of current payrolls and not a fixed dollar amount.

Mr. Heinrich stated that with the Boards direction, he would be happy to comply with the City's and on their behalf contact the Division of Retirement requesting they reconsider the method of calculation. Using percentages was not a Foster & Foster's idea, but a mandatory direction from the Division of Retirement. He stated that there is a possibility that the City has a misunderstanding with regard to actual percentage payroll. He stated that the 38.7% UAAL is a percentage of the realized payroll for the year (not the payroll as of 10/01/09 but what is paid during 10/01/09 through 9/30/10).

Ms. Walinski stated that the City pays the contribution with tax monies at the end of the first quarter (December). Mr. Heinrich stated that if the payroll was to decrease and the City's contribution was in excess two things could happen. Firstly, if it were decided

upon administratively a credit balance of the overpayment could be used to offset the following years contribution requirement. Secondly, the City could take the position and let the extra monies stay in the plan and reduce the contribution requirements going forward (dollar for dollar reduction the following year, or let the monies stay in the plan and then it would be a smaller than dollar for dollar reduction over several years).

After further discussion, the Board decided to take no action.

b. Trey Sizemore and H. Perez, ICMA-RC Retirement Plans Specialist

i. DROP Custodial Service: ICMA-RC acts as the self-directed DROP administrator for the General Employees Pension Plan. Due to the amount of assets already held in ICMA-RC, the 55 basis point administrative fees would not apply.

Mr. Cypen asked if ICMA would sign the same contract as the one he negotiated for Miami Beach General Employees? No definite answer given. He stated that he knows that ICMA does allow for tailoring the number of funds available to the participants. Mr. Sizemore stated that some plans have elected to allow the full lineup of mutual funds (approx. 50 funds), but they do allow the trustees to select a specific number of funds. He stated that with regard to monitoring, ICMA provides due diligence and upon request an annual plan review. Mr. Cypen stated that the statute requires that a third party, unaffiliated with ICMA, provide the annual plan review.

Mr. Cypen clarified that the Pension Protection Act made it possible for a participant to rollover DROP monies (401 Qualified Plan) to a 457 Plan (Non Qualified Plan). The DROP monies would need to be accounted for separately.

Ms. Perez stated that IRS-558 states that for the purpose of normal retirement the law imposes an additional 10% tax on certain early distributions. She stated that through enactment of Section 828, Congress demonstrated that public safety employees who reach the age 50 should be given the flexibility to receive pension distributions without being penalized.

Mr. Sacharow stated that once the legal documents are reviewed and approved by the Boards legal counsel his motion would be to retain ICMA-RC for the purpose of providing custodial and administrative services for the Self Directed DROP. Mr. Smith seconded the motion. None opposed.

(ICMA documents will be sent to Mr. Cypen in approximately 12 days)

4. Reports

a. Steve Cypen, Board Counsel

i. Status of Pending and Potential Litigation Matters –
Overtime 99-1 – The State had taken an appeal, but the briefs had not been filed as of yet.

Certification – There is a Stipulation of Fact and cross motions for Summary Judgment scheduled for November 5, 2009 in West Palm Beach.

Smith Barney – Counsel for the Board was successful in defeating the attempt to arbitrate. Smith Barney has taken an appeal and there will be a mandatory mediation conference in the 11th Circuit that is scheduled for Friday (8/21/09) morning. Neither side will agree to arbitration.

ii. Pension Protection Act (letter dated June 2, 2009) – Mr. Cypen stated that the Board received a letter from Bob Friedman (Holland & Knight) and he suggest Mr. Friedman be invited to a future meeting.

iii. CS SB 538 Trustee Term Limits – Mr. Cypen stated that the Board would have to decide whether to apply the extension to existing trustees as opposed to only people who are elected after the change. In terms of extending the terms of the trustees the Board has the authority to do so, but it might be necessary to talk to the unions. After taking a poll it was determined that all eight (8) attending trustees agreed to extend the term limits to four (4) years. By a majority of 6 to 2, the trustees opposed allowing sitting trustees to be grandfathered.

Lt. Liguori made a motion to request a change of ordinance that would allow for 4 year term limits. Lt. Tabeek seconded the motion. None opposed.

After discussion, Lt. Liguori made a motion to request a change of ordinance that would allow for an increase to 25% (at market) on foreign investment. Sgt. Myers seconded the motion. None opposed.

Approve Payments of Warrants 1313 to 1321: Chief Phillips questioned Warrant 1319 and the mileage Mr. Sacharow submitted for the FPPTA Conference in Boca Raton. Upon consideration, Mr. Sacharow remembered that there might have been trips that did not necessarily qualify for reimbursements. Chief Phillips stated that from Sunday through Wednesday each attending trustee made eight (8) round trips and Map Quest measures that distance from Rainberry Bay to Boca Raton Resort at 104 miles. The warrant was revised to reflect the accurate mileage and the reimbursement.

Chief Phillips made the motion to approve payment of Warrants 1313 through 1321 as amended. Mr. Smith seconded the motion. None opposed.

Warrant 1313: Approve DROP Retirement Benefit Enhancement Effective October 1, 2009 – Russell Anzalone (\$4,727.17), David Brassard (\$6,815.10), Geoffrey Cooper (\$5,820.72), Charles Jeroloman (\$4,265.61 and Thomas Tustin (\$6,263.10)

Warrant 1314: Approve Normal Retirement Benefit Enhancement Effective October 1, 2009 – James Dalton (\$5,244.54), Raymond Fitzer (\$4,164.72), Arthur Neddo (\$3,903.18), Robert Stevens (\$3,881.63) and Randy Straghn (\$2,857.69)

Warrant 1315: Approve Normal Retirement Pension Benefit Effective Retroactive to August 1, 2009 for Richard Murphy (\$6,288.80)

Warrant 1316: Foster & Foster (\$2,328 Professional Services Rendered, Invoice 861); Omega Recordkeeping Group (\$160.43 Quarterly Invoice 03/01/2009 Invoice #2009119)

Warrant 1317: Barry S. Balmuth, PA (\$4,531.07 Professional Services Rendered, Invoice #13441)

Warrant 1318: AT&T (\$100.12); FedEx (\$18.40); Platinum Plus for Business (\$5,030.23 IFEBP Registration Fees for Chuck Jeroloman, Adam Frankel, James Tabeek)

Revised Warrant 1319: Mel Sacharow (\$71.20 Travel Reimbursement for 104 Miles (\$57.20) and Parking (\$14) to Attend FPPTA Conference, Boca Raton on June 28 to July 1, 2009); Ralph Phillips (\$600 Reimbursement for FPPTA Wall Street Conference Registration Fee in New York on March 21-23, 2010); Anne Woods (\$146.94 Reimbursement for Office Supplies)

Warrant 1320: Approve Lump Sum DROP Disbursement for Robert Moreland (\$35,000)

Warrant 1321: Approve Normal Retirement Pension Benefit to Commence Effective October 1, 2009 for James Dalton (\$5,166.62)

Off. Jeroloman stated that Sgt. Myers and Lt. Liguori were invited to attend a Corporate Reform Conference in San Diego, CA sponsored by the Corporate Library (501C Educational organizational located in Maine) on September 8, 2009. The plan would incur no travel expenses and each trustee would be responsible for per diem expenses.

Lt. Tabeek made the motion to adjourn the meeting to continue on August 27, 2009 at 1:00pm at Fire Headquarters. Mr. Sacharow seconded the motion. None opposed.