

City of Delray Beach
Police and Firefighters' Retirement System
Minutes of
November 13, 2008

Members: Off. Jeroloman, Capt. Phillips, Sgt. Myers, Lt. Liguori, Chief Giaccone, Lt. Tabeek, Mel Sacharow, Adam Frankel, Doug Smith

Steve Cypen, Board Counsel
Karen Schell & Milena Walinski, Finance Department
Anne Woods, Plan Administrator

Guests: Mike Welker, Bogdahn Consulting; Brad Heinrichs & Dara Blanc, Foster & Foster; Bill Conrad & Carl Rice, Delaware Investments; Chris Gross, ILM; Christophe Pochart & Agustin Ruiz de Arcaute, BNP Paribas; Terrill Pyburn, Asst. City Attorney,

Off. Jeroloman, Chairman, called the meeting to order at 1:06pm. Roll call was taken of members and guests.

1. Approve October 15, 2008 Minutes:

The minutes were reviewed and approved as submitted. Lt. Tabeek made the motion to accept the minutes. Mr. Sacharow seconded the motion. None opposed.

2. Brad Heinrichs, Foster & Foster – Results of COLA Study:

Mr. Heinrichs stated that the report projected the value of the Excess State Contribution (COLA) account through the year 2017. The report summarized the anticipated results under varying supplemental cost of living adjustment (COLA) levels and assuming future investment returns of 0%, 4% and 8%.

Presently, the Plan provides for a 1% annual COLA for retirees/beneficiaries who terminate after September 30, 1993; and a supplemental COLA between 0% and 3% can be granted to these participants each year at the discretion of the Board. Chapter 175-185 tax revenues, in excess of \$504,922, are deposited into the COLA account and used to fund the supplemental COLA. The account earns the same investment return rate of the pension fund.

Over the last six (6) years, a 1.5% COLA has been granted each year. Due to relatively few retirees and the investment return in excess of 7% the account increased to nearly \$5 million. Over the next 10 years, the anticipated number of retirees eligible for the COLA should more than double. As a result, the account will not continue to grow as rapidly as it has over the past years. The projected account balance is a function of the inflows (premium tax revenues and investment income) versus the outflows (cost of annual COLA).

Scenario One: (i.e. a 1.5% COLA and 8% investment return). The account balance would continue to increase for a few years while the premium tax revenue plus investment income continue to exceed the annual cost of the COLA. As more eligible retirees enter the plan, the cost becomes greater than the annual additions and the account would begin to decline. At the end of the projection period, the account balance would be above \$6 million but would continue to decline in future years as the annual cost exceeds the additions.

Mr. Heinrichs stated as with any projection, assumptions are made regarding future experience; and obviously it would be highly unlikely that the experience would match the assumptions so the actual results would vary. A few of the assumptions used to prepare the study are as follows:

- Total Chapter 175-185 premium tax revenues would continue to be \$1,784,631 each year.
- Actual investment return rate earned for year end 9/30/2008 is -10%
- All eligible active, vested terminations and retirees begin receiving the COLA 25 years after their original date of hire.

Mr. Heinrichs stated that with the current 1.5% annual benefit enhancement and an 8% asset return he anticipated that the COLA account would continue to grow over the next 10 years. If the benefit enhancement were to increase to 2% with an 8% asset return the account would be depleted by 2017. He stated that the 1.5% enhancement would be sustainable over the short, medium and long term; an increase to 2% would not be prudent over the long term. He suggested that the Board review the COLA account every 2 years. (See Attached COLA Study)

After discussion, the Board decided to take no action until after January 2009. The COLA account would be reviewed annually.

Mr. Cypen asked if Mr. Heinrichs could provide a time frame on when calculations pertaining to the certification litigation would be available. Mr. Heinrichs stated that he required additional information and needed to schedule a conference call with the City.

3. Lt. Liguori – Further Discussion on Pop-Up Provision:

Mr. Heinrichs stated that the Pop-Up provision is a form of payment that could be added without the Plan incurring additional costs. The Pop-Up option would provide that the pension benefit would revert back to an actuarially equivalent Single Life Annuity benefit if the beneficiary dies prior to the participant (retiree). The payment would be made actuarially equivalent to the 60% Joint and Last Survivor annuity (normal form of payment for married participants).

Mr. Heinrichs stated that the counter argument of this provision would be if the participant had undisclosed knowledge pertaining to the beneficiary; in some cases this may cause an adverse selection that would then cause the Plan to incur losses. He stated that Pop-Up option should not be made available to unmarried members.

Lt. Liguori stated that that the Pop-Up option is relatively inexpensive; and since the City would incur no cost, all available options should be made available to the employee.

4. Steve Cypen – Status of Pending and Potential Litigation Matters:

Smith Barney Litigation - Mr. Cypen stated that on November 12, 2008, the complaint against Citi Group Global Markets formerly known as Solomon Smith Barney was filed in Palm Beach County Circuit Court. He urged that no one (trustee or City staff) talk with the media, and refer questions to Jerome Congress, Esq. (Milberg). He requested that in accordance with Chapter 286 of the Sunshine Law an executive session (Shade Meeting) be scheduled. He recommended that the meeting be scheduled either at the beginning or end of the next scheduled meeting (December 17, 2008). The attendees would be limited to the trustees, Maya Saxena, Jerry Congress and himself. After discussion, the Board decided to notice the executive session for 1pm with the regular meeting to follow on December 17, 2008.

IRS Compliance – Mr. Cypen nor Holland and Knight recommended that the Board not consider taking advantage of the IRS's offer for a later filing date, but instead file by January 31, 2009.

Pension Protection Act – Mr. Cypen stated that the Act came into effect in August 2006. It allows for in service distributions; which means upon reaching normal retirement age the employee does not retire (continues working) but receives a pension benefit. Normal retirement ages defiantly have to be an ascertainable time. For the first time, in May 2007, the IRS cumulated regulations that were to be effective on January 1, 2009. If a police or fire plan wanted to have a qualified plan the rule stated you could not have an age younger than 50 years old. If that rule were enforced it would do away with a 20 years and out retirement as well as probably the 25 and 30 years and out retirements. NCPERS has been successful in getting the ruling postponed from January 1, 2009 to first plan year beginning on or after January 1, 2011. (For the Delray Plan it would be October 1, 2011.) The thinking is that the IRS will not succeed.

6. Other Business:

-Administrator(s) Corrections to Jimmy Horrell (Retiree) Monthly Pension Benefit: Karen Schell, Finance Department, stated that there are three (3) pending issues regarding Jimmy Horrell (retiree).

1. Mr. Horrell entered the DROP on November 1, 2007, and then terminated employment on December 31, 2007 (technically in the DROP for 2 months). In error, PRC allowed two (2) additional DROP payments deposited into his account; once the error was discovered the monies were withdrawn from the account and returned to the Plan there was a \$125.47 loss. Due to the error, Mr. Horrell should not be responsible for the repaying this money.

2. After reviewing Mr. Horrell's file that was transferred from Benefits USA/PRC it was discovered that his benefit option form was signed and he selected the 60% Contingent Annuity which calculated to \$4001.10. The information provided by PRC was in error and the warrant approved by the Board was for a monthly benefit of \$4037.91. The \$4037.91 would have been the pension benefit if the 50% Contingent Annuity had been selected. For the last 13 months, Mr. Horrell has received an overpayment of \$36.81 (total amount of overpayment \$478.53).

3. Mr. Horrell purchased three (3) year of prior military service by rollover from this his 457 Account and payment plan. Due to no Safe Harbor, there are non-taxed monies in the amount of \$67.77. There is the possibility that PRC took the 457 monies used to purchase the prior service and considered it pre-taxed. Mr. Cypen stated that the way to correct the issue would be for the Finance Department reissue a corrected 1099's.

Sgt. Myers made the motion to resolve Mr. Horrell of any responsibility to refund the \$125.47; and send a letter to Scott Baur, PRC requesting, that due to an error made by PRC, he reimburse the monies to the Plan. Adjust the monthly pension benefit from \$4037.91 to \$4001.10. Mr. Frankel seconded the motion. None opposed.

Lt. Liguori made the motion to notify Mr. Horrell of the \$478.53 overpayment and inform him of his options – pay the monies in full, or repay the monies over the next 18 months. If Mr. Horrell does not respond to the Board's notification, Salem Trust (custodian) would be authorized to deduct, on a monthly basis, \$36.81 from his pension until the total amount is repaid. Also, request that the custodian reissue a corrected Form 1099. Lt. Tabeek seconded the motion. None opposed.

-Off. Jeroloman, Educational Seminar: Off. Jeroloman stated that the seminar was well received and the information provided would be helpful to both retirees and members who are considering retirement.

-Approve Payment of Warrants 1208 through 1227:

Mr. Sacharow made the motion to approve payment of Warrants 1208 through 1227. Chief Giaccone seconded the motion. None opposed.

- Warrant 1208: Approve DROP Retirement Benefit Enhancement, January 2009 for Marc Woods (\$6,994.70)
- Warrant 1209: Approve DROP Retirement Benefit Enhancement, Retroactive November 2008 for Craig Hartmann (\$7980.79)
- Warrant 1210: Approve Per Diem for – James Tabeek (\$176.07 Division of Retirement-State Conference, Orlando on December 1-3, 2008) and Brady Myers (\$406.45 IRR Public Fund Conference – San Francisco on December 13-16, 2008)
- Warrant 1211: Approve Normal Retirement Benefit Enhancements, January 2009 for Veronica Covington (\$4,010.26) and Matthew Mitchell (\$4,660.56)
- Warrant 1212: Commence Normal Retirement Pension Benefit as of December 1, 2008 for Paul Hensley (\$4,647.54), Thomas Whatley (\$3,799.37), Joseph Weitman (\$3,920.81)
- Warrant 1213: Donald West – Increase Monthly Pension Benefit Effective January 1, 2009 to \$4,855.78; and Approve a One Time Retroactive Adjustment in the amount of \$5,566.36 (\$118.43 each month from June through December 2008. Board approved change of hire date at the October 15, 2008 meeting)
- Warrant 1214: Commence Normal Retirement Pension Benefit Effective Retroactively to October 1, 2008 for Patrick McCollum (\$798.53)
- Warrant 1215: Commence Normal Retirement Pension Benefit Effective December 1, 2008 for David Priest (\$3,951.86)
- Warrant 1216: Approve Quarter Ending September 30, 2008 Management Fees – DG Capital (\$17,168.82), Pioneer Investments (\$5,863.36); Delaware Investments (\$23,265), Mutual of America (\$2,436.06)
- Warrant 1217: Commence Retroactive as of October 1, 2008 DROP Retirement Pension Benefit for Edward Flynn (\$5,798.49)
- Warrant 1218: Barry S. Balmuth, PA (Pending Litigation \$249.76), Holland & Knight (\$75 for IRS Compliance Review)
- Warrant 1219: Tegrity Plan Administrators (\$454.17 formerly Omega Recordkeeping – DROP Plan Quarter Ending September 30, 2008), Steven Gordon, CPA (\$785 Certified Audit of Financial Statements as of 9/30/08, Invoice #5384)
- Warrant 1220: FedEx (\$17.54 – City Account #1082-5620-6, Invoice #2-952-32766), FedEx (\$139.65 – Account #2107-3951-3, Invoice 2-968-76138), Quill Office Supplies (\$1,126.83 – Account #5323240)
- Warrant 1221: Approve Travel Reimbursement and Auto Leasing for Chuck Jeroloman to attend Division of Retirement Rules Workshop, October 22, 2008 (\$260.34 Per Diem, Hotel, Tolls/Gas and \$60 Enterprise Leasing Company), Travel Reimbursement for Ralph Phillips to attend FPPTA Conference, October 5-8, 2008, Orlando (\$59 Gas)
- Warrant 1222: Enterprise Leasing Company (\$165 Auto rental for Chuck Jeroloman to attend FPPTA Conference January 2008) (**Note: voided due to double payment.**)
- Warrant 1223: Geneos Wealth Management, Inc. (\$3,979.88 – Jeff Helms consulting fee to attend Educational Seminar on November 4-5, 2008)
- Warrant 1224: Platinum Plus for Business (\$1,476.31, Postage, Airfares Jeroloman/Myers (Boston & San Francisco), Printing Plus (\$290 Letterhead/Copies of 2007 Annual Report), Anne Woods (\$360 Ed. Seminar – Gulfstream Cleaners)

Warrant 1225: IFEBP (\$765 for 2009 Membership Dues), AT&T (\$117.16)

Warrant 1226: Approve Normal Retirement Benefit Enhancements for February 2009 – Maurice Haas (\$4,050.65), Alberto Melis (\$4,026.24), Michael Wigderson (\$4,527.75), James Wilson (\$4,233.92), Ivery Williams (\$2,984.61)

Warrant 1227: Approve DROP Retirement Benefit Enhancements for February 2009 – Thomas Quinlan (\$5,043.09), Michael Kosick (\$5,276.54, John Evans (\$5,597.79), Pamela Garcia (\$5,675.10)

5. Mike Welker – International Manager Search (Christophe Pochart – BNP Paribas & Christopher Gross – ILM); Bill Conrad & Carl Rice – Delaware Investments; Further Discussion – FISCO:

Delaware Investments, Bill Conrad & Carl Rice: Inception 11/30/07, Large-Cap Value, Russell 1000 Value Index (Benchmark)

Financials: Initial Investment \$21.1 million, Net Contributions (\$0.7m), Total Portfolio Gains (Losses) (\$7.2m, 35% down), Current Portfolio Value \$13.2m as of 10/31/08

Currently the portfolio: 5.5% ahead of the benchmark. Currently 32 stocks held in the portfolio with top sectors being healthcare (21.5%) and consumer staples (8.9%)

Performance Summary: -14.38% Quarter, -33.45% YTD and -35.26% since inception

Mr. Welker stated that, at this point in time, there is not need to consider a manager change.

Bogdahn Consulting 3rd Quarter Portfolio Review (September 30, 2008):

Current Market Value \$100,034,000

Asset Allocation – Domestic Equity \$45,444,236 (45.4%), International Equity \$6,350,683 (6.3%), Domestic Fixed Income \$28,421,716 (28.4%), Real Estate \$9,207,288 (9.2%), Timber \$3,502,103 (3.5%) and Cash Equivalent \$7,108,005 (7.1%)

Total Fund (Net) -17.84%

Total Fund Portfolio (Gross) -17.56%

Total Equity -27.47%

Domestic Equity -27.88%

Pioneer Equity -19.21%

Delaware Investments N/A

ICC Multi Cap N/A

DG Capital N/A

Rigel Capital N/A

Total International Equity -26.32%

WHV -18.80%

Voyageur N/A

Total Fixed Income 2.79%

ICC Fixed 2.28%

Total TIPS 6.28%

Mutual of America N/A

Quadrant (Real Estate) -48.08%

American Stable 5.25%

AmSouth (Timber) 5.44%

Molpus Woodlands N/A

Mr. Welker informed that Chris Vassilopoulos (Pioneer) and Jack Farland (Voyageur) were laid off from their respective firms. Neither had portfolio management responsibilities.

Rebalancing – Throughout the year, monies needed to meet certain distributions were taken from different asset classes to keep within the guidelines set-up in the investment policy. Any additional monies (i.e. City Contribution) coming into the plan, that are not earmarked to fund a new investments, would be allocated to the existing managers.

Further Discussion FISCO – UBS demanded that FISCO meet margin and buy back the securities at significant values. The cost to buyback the securities was \$250,000 that was taken from the collateral pool which impacted their performance by 22% (down 17% YTD). It is FISCO's opinion that their arrangement with the UBS violated, and a lawsuit is pending. Further updates forthcoming:

International Manager Search - ILM, Christopher Gross & BNP Paribas, Christophe Pochart (MISelect Spectrum CD) – French banking firm partnered with Marshall & Ilsley Bank (Rated A- (S&P) and A1 (Moody's), Domestic Issuer and FDIC Insured). FDIC Insurance – Currently up to \$250,000 per plan participant until 12/31/2009, and \$100,000 thereafter. Pass-through insurance applies to pension funds. 8 year certificates of deposit (earns 1.5% interest), and 100% principal protected if held to maturity. Fees: 75 basis points

Investment Process – Initial investment commitment of \$5 million. Actually, \$3.5 million is invested in a CD earning 1.5% yearly for an 8 year period; after which the initial \$5 million is returned to the Plan. The \$1.5 million would be invested in a structured product created by BNP (index fund) in the international indexes. The investment would earn the 1.5% on the CD, plus the index return on the \$1.5 million.

After discussion, the Board requested that Mr. Welker contact Steve Cypen regarding contract terms, and Brad Heinrichs on the actuarial reporting. (January 2009 agenda)

-Scott Baur, DROP Quarterly Review and Pending Matters:

Mr. Baur stated that 38% of the DROP assets are in the Stable Value Fund that has remained stable in the present market. The Calamos Growth/Income Fund (convertible bond fund) has been placed the watch list, and futuristically might need to be reclassified or replaced.

The custodian transfer to Schwab is scheduled for December.

Meeting adjourned at 5:35pm