

**City of Delray Beach**  
**Police and Firefighters' Retirement System**  
**Minutes of**  
**March 16, 2011**

Members: Sgt. Brady Myers, Lt. John Palermo, Lt. Joseph Liguori, FF Justin Caruso, Asst. City Manager Douglas Smith, Commissioner Adam Frankel, Melvin Sacharow

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

Absent: Chief Anthony Strianese and Chief Gregory Giaccone

Guests: Mike Welker, Bogdahn Consulting; Lt. Jim Tabeek (Fire Department); David Boyd, Finance Director, Chuck Jeroloman (PD Retired), Marc Woods (PD Retired)

Lt. Liguori, Chairman, called the meeting to order at 1:10pm. Roll call was taken of members and guests.

**1. Approve Meeting Minutes:**

a. January 13, 2011 – Commissioner Frankel made the motion to defer approving the minutes to the April 20, 2011 meeting. Mr. Sacharow seconded the motion. None opposed

**2. New Business:**

- a. Mike Welker, Bogdahn Consulting
- i. Core Fixed Income Manager Search – Presentations - Garcia Hamilton, Mutual of America Capital Management, Orleans Capital, Sawgrass Asset Management.

Mutual of America – Established in 1993. \$10.79 billion is assets under management. Currently manages a \$5 million TIPS/CIPS account. Fee schedule – 25 basis points for both mandates.

Mr. Welker stated that the fixed income allocation of \$21 million (20%) is the core portion of the portfolio. He recommended that the Board not consider a split of assets. After a lengthy discussion, Sgt. Myers made the motion to retain Mutual of America contingent upon the termination of ICC Capital. Lt. Palermo seconded the motion. Mr. Sacharow stated that his objection to Mutual of America is their holdings of BBB bonds. Roll call: Palermo-Yes, Myers-Yes, Caruso-Yes, Sacharow-No, Smith-Yes, Frankel-Yes, Liguori-Yes. After reconsideration, Mr. Sacharow amended his vote to Yes. Motion passes.

b. Portfolio Performance Review – The fund performance is up 9.63% through February.

c. Pre-retirement Death Benefit for Sgt. Adam Rosenthal: Ms. Schell stated that a letter addressed to the City of Delray Beach Pension Board had been received from Joanne Rosenthal (spouse) formally requesting that she be granted a pre-retirement death benefit due to the death of her husband Sgt. Adam Rosenthal. Mrs. Rosenthal mentioned that her request was made pursuant to the ordinance and she understood that the primary beneficiary would be herself and the children would also receive benefits. Mr. Cypen asked if notice had been given to Sgt. Rosenthal's father Wayne Rosenthal (named contingent beneficiary). Ms. Schell stated that Mr. Rosenthal delivered the letter from Mrs. Rosenthal.

For the record, Lt. Liguori read the text of Section 33.62 (F) Pre-retirement Death (I) (a) Service Incurred. A death benefit shall be payable on behalf of any member who dies as a direct result of an occurrence arising in the performance of service. These benefits are not to be limiting to other benefits available under State law. The benefits shall be payable as follows:

(a) To the spouse, until the earlier of death or remarriage, a monthly benefit equal to fifty (50) percent of the member's average monthly earnings; or to a designated beneficiary or beneficiaries other than the spouse, until death, a monthly benefit equal to the actuarial equivalent of a lifetime benefit payable to the member if the amount of fifty (50) percent of the member's average monthly earnings at date of death,.....

Lt. Liguori stated that it was his understanding that Sgt. Rosenthal had not change his beneficiary form after the death of his first wife. Ms. Schell stated that the beneficiary form on file named Amanda Rosenthal (deceased) as the primary beneficiary and Wayne Rosenthal as the contingent beneficiary. Lt. Liguori stated that the issue before the Board would be the interpretation of the ordinance.

Mr. Cypen stated that the ordinance, as written, can reasonably be read to say that the spouse, if there is one, is the beneficiary. In this case, it can be concluded that Sgt. Rosenthal had put his deceased wife as the beneficiary and his father only as the contingent can support the fact that he only wanted his father if he didn't have a spouse. Lt. Liguori stated that he concurred, and the intended wording of the ordinance is that the benefit goes to the spouse irrespectively of what is on the beneficiary form. Mr. Cypen stated that if another beneficiary form existed, and the primary beneficiary was living, then that could possibly change the status of the spousal benefit. Mr. Cypen stated that due to the fact that Sgt. Rosenthal had his previous spouse as the primary and his father as the contingent, he felt this would support the interpretation.

Commissioner Frankel stated that he disagreed with the interpretation because of the following questions: When did the first wife die? Answer - 5 years ago. How long had he been remarried? Answer - 3 years. So then he had 3 years to change the name of beneficiary. Mr. Cypen stated that unfortunately some people never do. Commissioner Frankel stated that he differed in the interpretation because of the significant length of time the deceased party had to make the beneficiary change. Mr. Cypen stated that Wayne Rosenthal is not taking the position that he is the beneficiary. Commissioner Frankel stated that it is Mr. Rosenthal's prerogative to do whatever with the money. Mr. Cypen stated that there would only be an issue if he were to apply for the benefit.

Commissioner Frankel stated that everyone wants to do the right thing; but due to the uncertainty of the intent he felt that waiting another month to investigate would not be out of line. Lt. Liguori stated that there is no need to speculate on anything if the main goal is to concentrate on the main issue, and have the Board discuss and rule on the wording in paragraph (a) of the ordinance. The name on the form would not matter if the Board decides the benefit goes to the spouse on a pre-retirement service incurred death only. In Mr. Cypen's opinion, the ordinance lends itself to the interpretation that unless the spouse is affirmably removed then the spouse is the beneficiary. Sgt. Myers asked for further clarification of the term contingent beneficiary. For the record, Lt. Liguori stated that Sgt. Rosenthal had four (4) children of which three (3) were born from his first marriage. Those children have been legally adopted by Joanne Rosenthal.

Mr. Cypen informed the Board that the decisions of these issues are strictly at their discretion. He stated that the other issue is whether Sgt. Rosenthal's death was incurred in the line of duty. He stated that his position is that when a police officer is killed wearing a uniform, in a police vehicle, heading toward a shift in which he is required to work, traveling in a reasonable period of time and on a route that is not folly and detour, then the death is considered service connected. He stated that the Board has the authority to find for a service incurred death. Lt. Palermo stated that at the time of the accident, Sgt. Rosenthal was logged-on to his computer and that technically put him into service.

After lengthy discussion, Mr. Sacharow made the motion that based on the evidence the request for a pre-retirement service incurred death benefit would be granted. Commissioner Frankel seconded the motion. Mr. Smith voted no. Motion passed 6-1.

FF Caruso leaves the meeting.

Mr. Sacharow made the motion to consider Section 33.62 (F)(1)(a) of the ordinance to indicate the current spouse as the beneficiary. Lt. Palermo seconded the motion. Commissioner Frankel voted no. Motion passed 5-1.

FF Caruso returns to the meeting.

Mr. Cypen stated that the third issue deals with section (F)(1)(c) of the ordinance (which reads – ‘Notwithstanding any provision of this subsection to the contrary, the surviving spouse of any member killed in the line of duty shall not lose death benefits upon remarriage.’). The State put this language into the statute approximately 10 years ago. The purpose was to assure that if a person was killed in the line of duty as opposed to just died in the line of duty, the surviving spouse could remarry without affecting the benefits.

Mr. Sacharow made the motion to certify Sgt. Adam Rosenthal’s death as killed in the line of duty. Sgt. Myers seconded the motion. Mr. Smith voted no. Motion passes 6-1

**3. Reports:**

a. Steve Cypen, Board Counsel

i. Status of Pending and Potential Litigation Matters:

Smith Barney – The opposing counsel requested, and was granted, a 15 day extension for filing a response to the Board’s statement of arbitration that was authorized in January 2011.

Benchmark Financial Services – Duplicate disc were made of three (3) prior meeting tapes.

McAloney Estate – At the February meeting the amount authorized for negotiation was approximately \$40,000. Currently, the estate attorney notified that he wanted to take additional fees. In light of the fees that have already been taken (approximately 16% of the estate), he did not feel this would be in the best interest of the Plan. Commissioner Frankel agreed to contact the attorney to further discuss the issue.

**4. Old Business:**

a. COLA Account Bifurcation (Chapter 99-1) – Brad Heinrichs, Letter Dated February 18, 2011

Lt. Liguori stated that at the February meeting, the actuary was authorized to prepare an additional study regarding an alternative method to the splitting of the COLA account. An alternative natural breakpoint to split the account balances would be when 99-1 was implemented. The table below shows the result of splitting the COLA evenly as of October 1, 1998 relative to the prior approach which was to split the account back to the onset of the 93 Agreement. There is a \$60,087 difference from the original study.

Implementation of:	99-1 Approach	Prior Approach
Fire	\$4,024,978	\$4,085,065
Police	\$302,458	\$242,371
Total	\$4,327,436	\$4,327,436

After further discussion, Mr. Sacharow made the motion to approve the actuarial projection that was updated since the last meeting to include the \$60,000 in accordance with the February 18, 2011 letter. Sgt. Myers seconded the motion. None opposed.

The City’s software is not in place and the overtime data will have to be inputted manually. The Board agreed to collect the 6% contribution on the overtime for police officers starting effective October 1, 2006 when the benefit starts. Ms. Schell suggested that instead of incurring the cost of having the actuary prepare the calculations, the Board might consider having the City provide the numbers. The Board agreed to have the Finance Department prepare the calculations.

**6. Expenses:**

a. Approve Warrants 1540 through 1550 – Mr. Sacharow made the motion to waive the reading of the warrants and approve payment. Commissioner Frankel seconded the motion. None opposed.

Warrant 1540: Approve Normal Retirement Benefit Enhancements for P.D. (1% Enhancement) – Robert Bradley (\$5073.10), Ross Licata (\$6112.87), Roderick Payne (\$4286.97), William Smith (\$6670.82), Geoffrey Williams (\$3935.86)

Warrant 1541: Approve Normal DROP Retirement Benefit Enhancement for F.D. (2.5% Enhancement) – Michael Hendricks (\$4192.83), Paul Hensley (\$5131.36), Steven Hull (\$2666.36), Michael Kenopke (\$4092.15), William Rego (\$3248.20), Barry Searles (\$2618.76)

Warrant 1542: Approve Refund of Employee Contributions to – Alfredo Rojas (\$1322.23 Resignation Date November 22, 2010) and Luis Armada (\$19,483.52, Resignation Date March 11, 2011)

Warrant 1543: Approve Commencement of Normal Retirement Pension Benefit Effective June 1, 2011 for Katherine Hoecherl (\$4223.62)

Warrant 1544: Barry Balmuth, Esq. (\$4194.71, Invoice 13726 – Benchmark Financial Litigation

Warrant 1545: Platinum Plus for Business, Account #1505 (\$2080.05, FPPTA Trustee School, January 20 through February 2, 2011 – Hotel Reservations for Mel Sacharow, Brady Myers, John Palermo and Anthony Strianese)

Warrant 1546: AT&T (\$100.31 Monthly Service), FedEx (63.15 Account #280053139, Invoices 735630583, 741110838 and 741887868)

Warrant 1547: Foster & Foster (\$12,251 total for 2 invoices. Invoice #1823 \$9204 and Invoice #1878 \$3047)

Warrant 1548: Approve F.D. Certification Lump Sum Payments for the following:

Richard Ackerman	\$18,068.67
Geoffrey Cooper	5,760.56
James Dalton	6,331.11 (\$7,160.88 withheld for benefit overpayments)
John Deckers	8,871.73
Wayne Dorcas	5,175.63
Donald Farrow	3,000.52
Andrew Heithaus	2,416.91
Paul Hensley	9,164.32
David Kobrin	2,676.05
David Priest	2,758.59
Charles Stravino	10,575.21
Harry Velarde	2,588.80
Donna Wolfer	3,481.80

Warrant 1549: Approve Suspension of Monthly Pension Benefit Effective April 1, 2011 Due to Non Response to the Annual Alive Well Letter for the following: David Cummings, Jr., Michael Kenopke, Fenton Moore, Gayl Nye and Billy Ward, Jr.

Warrant 1550: Approve 2012 Fiduciary Liability Insurance (\$9,196.01 Renew Effective Date April 20, 2011, Account No. City-02)

Commissioner Frankel made a motion to adjourn the meeting at 4:45pm. Lt. Palermo seconded the motion. None opposed.

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 March 16, 2011 which minutes are formally approved and adopted by the Police and Firefighters' Retirement System, Board of Trustees on June 15, 2011.



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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	