

**City of Delray Beach  
Police and Firefighters' Retirement System**

**Minutes of  
December 17, 2008**

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

Steve Cypen, Esq., Board Counsel  
Maya Saxena, Esq., Saxena White  
Jerome Congress, Esq. Milberg LLP  
Lisa Mazzei, Court Reporter

1. Closed Attorney/Client Session:

Off. Jeroloman, Chairman, called the meeting to order at 1:08pm. Roll call was taken of members and guests.

Mr. Cypen explained the Sunshine Law Exemption, Florida Statutes 286.011(8) regarding attorney-client Shade Meeting for pending litigation. All conditions were met to conduct the Shade Meeting.

The session commenced at 1:10pm. Approximate length of meeting 90 minutes. List of all eligible attendees was read from the agenda.

The Executive Session adjourned at 1:50pm (15 minute recess)

Reconvene - Regular Meeting

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

Steve Cypen, Esq., Board Counsel  
Karen Schell, Plan - Financial Administrator  
Anne Woods, Plan Administrator

Absent: Sgt. Myers

Guests: Milena Walinski, Asst. Finance Director; Terrill Pyburn, Asst. City Attorney

Off. Jeroloman, Chairman, called the meeting to order at 2:20pm. Roll call was taken of members and guests.

2. Unfinished Business:

a. Pop-Up Provision Retirement Option

- i. Letter from Brad Heinrichs, Foster & Foster dated November 14, 2008
- ii. Drafted Pop-Up Ordinance

Mr. Cypen stated that he had been asked to prepare a Pop-Up Option ordinance; that has been reviewed by the attorney's representing the City (Jim Linn and Susan Ruby, City Attorney). Additionally, the Board had request and received a letter from Foster & Foster (dated November 14, 2008). The letter certified that neither the Plan nor the City would incur additional costs. An additional letter would need to be provided by the actuary stating that there would be no cost to add this amendment.

Mr. Cypen stated that changing the ordinance is an employee issue that would need to be negotiated. Both the Police and Fire Departments would need to sign-off before gong forward with the process of amending the ordinance. Another issue would be if the City takes the position, as stated in Jim Linn's memorandum, that the 1993 Agreement plays a role in the decision.

Mr. Smith stated that he would take the issue to the City Commission for discussion at a Workshop Meeting (January meeting).

3. New Business:

a. Ordinance Change to Allow for a Seven (7) Year DROP Option

Lt. Liguori stated that there is no statutory requirement to the number of years allowed. The five (5) year DROP was an arbitrary number used when the DROP Plan was instituted. There are members of the Plan that are requesting consideration for a seven (7) year DROP, but not extend the 30 year limit in service per ordinance. The City would experience a savings in cost by the following - reduced multiplier and salary increases, contributions reduced for two (2) years and reduce the possibility of a disability claim. Mr. Cypen suggested that Mr. Smith should also take this request to the City Commission, and the actuary would need to provide a certification letter and an impact statement.

Mr. Cypen stated that extending the DROP would be an overall savings to the City, but there could be a cost to the Plan (i.e. less people paying into the Plan for a longer period of time). The actuary may have to change the retirement assumption. Lt. Liguori stated that the salary assumption has already been changed from a 20 to 23 year normal retirement.

Lt. Tabeek suggested that both requested changes should be thoroughly reviewed before the Board takes action.

After lengthy discussion, the Board agreed to consider not only the seven (7) year DROP, but also amending the ordinance to increase the length on service time to 32 years.

b. Non-Marital Benefit Offset

Mr. Cypen stated that a question arose as to whether there was a discriminatory provision in the Plan affecting married employees to unmarried employees. The normal form of benefit for persons who are married member is Joint and 60% Survivor (free with no reduction in the benefit the spouse receives 60%). If the beneficiary is other than a spouse there is a reduction. The spousal benefit was an existing option prior to 99-1. The non-marital benefit offset is not mandated by 99-1, and complying with 99-1 by adding a beneficiary benefit does not do away with the free spousal benefit or makes it discriminatory. He recommended that the Board take no further action.

4. Reports:

a. Mike Welker, Bogdahn Consulting: Portfolio Review for November 2008 (not in attendance)

It was agreed that the January 21, 2009 meeting would be rescheduled to January 14<sup>th</sup>.

b. Steve Cypen, Board Attorney

Status of Pending and Potential Litigation Matters – The two (2) suits pending with the City: Benefit Enhancement/OT – a Summary Judgment is scheduled for January 12, 2009; and the Certification – as previously discussed, the actuarial calculations are still pending.

IRS Compliance: At this time, the filing is scheduled for January 31, 2009.

Pension Protection Act – There is doubt that the temporary regulations will be approved. If the temporary regulations become final, the pension plan would be unable to have a normal retirement age earlier than 50 years old.

Mr. Cypen stated that he is making a standing request for future attorney/client privileged meetings as necessary.

5. Board Member Items – Nothing to report.

3. New Business – cont'd.

Approval of Payment of Warrants 1228 through 1238 – Mr. Sacharow made the motion to waive reading of the warrant and approve payment. Mr. Frankel seconded the motion. None opposed.

Warrant 1228: U.S. Treasury (\$1,000, IRS Filing Fee for Plan Qualification Review

Warrant 1229: Travel Reimbursement – Chuck Jeroloman (\$70) and Brady Myers (\$38) IFEBP Annual Conference, San Antonio, TX – November 11-16, 2008); Brady Myers (\$55.26 FPPTA Conference, Orlando – November 29-December 3, 2008)

Warrant 1230: FPPTA 2009 Membership Dues (\$600)

Warrant 1231: Holland & Knight LLP (\$425, Invoice #2324375 – IRS Compliance Review); Barry S. Balmuth, PA (\$75, Invoice #13303 – Professional Services Rendered for City Litigation)

Warrant 1232: Wentworth, Hauser & Violich (\$6,677 Management Fees for Period July 1 through September 30, 2008)

Warrant 1233: FedEx (\$104.55, Invoice #899180398 – Acct. #210739513), AT&T (\$99.58, Acct. #5110450)

Warrant 1234: Steven I. Gordon (\$3,490, Audit of Financial Statements as of September 30, 2008)

Warrant 1235: Paul Hensley (\$187,469.11, DROP Roll Over)

Warrant 1236: Richard Ackerman (\$6,370.97 Commence Normal Retirement Pension Benefit Effective February 1, 2009)

Warrant 1237: Chuck Jeroloman (\$464.65 Reimbursement for Educational Seminar (November 4-5, 2008 for Food and Supplies)

Warrant 1238: Platinum Plus for Business (\$6,230.34 Educational Seminar Expenses (\$1,096.99) and Hotel Accommodations for IFEBP, SPPON and FPPTA Conferences (\$5,133.35)

Capt. Phillips made the motion to adjourn the meeting at 3:10pm. Mr. Sacharow seconded the motion. None opposed.