

**City of Delray Beach
Police and Firefighters' Retirement System
Minutes of Special Meeting
Board of Trustees
January 20, 2010**

Members: Off. Chuck Jeroloman, Chief Ralph Phillips, Sgt. Brady Myers, Chief Greg Giaccone, Lt. Joe Liguori, Lt. Jim Tabeek, Commissioner Adam Frankel, Asst. City Manager Doug Smith, Mel Sacharow

Steve Cypen, Board Counsel

Anne Woods, Plan Administrator

Guests: Bonni Jensen, Esq. (Counsel, PBA), Brian Shutt, City Attorney, Sgt. Bob Brand (Retired), Sgt. Tom Tustin, Det. Brian Bollan, Off. Joe Hart, Sgt. Scott McGuire, Sgt. Vinnie Gray

Off. Jeroloman, Chairman, called the meeting to order at 1:04pm. A roll call was taken of members and guests.

99-1 Discussion of Pending Appeal in First District Court of Appeal and Potential Resolutions Thereof:

Off. Jeroloman stated that when the 1993 Agreement was negotiated it was agreed that all future 175/185 monies would be directed to fund a benefit enhancement (COLA). In 1999 the membership voted to increase the pension multiplier to 3.5% instead of including overtime in pension calculations. In 2003/04 the membership discussed the issue of overtime vs. multiplier and the majority agreed to the increased multiplier. He stated that to his knowledge, neither the PBA representatives nor the membership had ever voted to include overtime in the pension.

Mr. Cypen stated that normally, not to violate the Sunshine Law, settlement negotiations are held in private by calling for a Shade Meeting. He cautioned the attendees to be aware that this was an open meeting and all conversations were on the record.

Lt. Liguori stated that the purpose of the meeting was to determine what was driving the PBA to appeal the legal decision made by the court. Ms. Jensen stated that under the law, the PBA is entitled to appeal the decision. She stated that under State Law, overtime is included in pension calculations for final average salary; and for individual members a cost of living adjustment as well as a higher average salary would be a better benefit.

Lt. Liguori stated that it is unlikely that a judge would make a decision that would allow a State Law to overturn a local contract, and that is what happened. He asked Ms. Jensen if she felt she could win the appeal on that point as well as the supplemental plan points.

Ms. Jensen stated that she thought that the purpose of the meeting was to discuss settlement and not argue the case. Mr. Cypen stated that there were two points in the case – unconstitutionality of impairment of a contract and the other was the supplemental plan. The court ruled on both.

Ms. Jensen stated that at the time of the appeal, she was in contact with Jim Linn and discussing the possibility of a resolution. Once the State filed their appeal, the PBA had no other choice but to do the same. The court did not allow time for further discussions and took jurisdiction of the State's appeal. The PBA was unsuccessful in its argument to the court asking to send the parties back to the trial court in order to work out the issues and to be granted a final judgment that would have allowed for more time.

Ms. Jensen stated that in her opinion, the 1993 Agreement is nonexistent because every provision in the contract has been fulfilled, and the pension plan had been amended. Mr. Cypen stated that if the PBA had not taken the position it took, the State might have accepted the terms of the judgment. Ms. Jensen stated that she was unaware of that fact.

Ms. Jensen stated that when deposed, Trish Shoemaker (Div. of Retirement) indicated that 175 monies could be used to fund the overtime. Lt. Liguori stated that since only police members receive overtime the 175 monies would not be used to fund the overtime, and it would then become necessary to split the COLA. Lt. Tabeek stated that State Law mandates that 175 monies can only benefit firefighters. He stated that the reason Ms. Shoemaker might have taken that position was because fire and police benefits have been the same.

For example, Ms. Jensen stated that once there is enough monies accrued to fund the minimum benefit the definition of salary would be amended and on the next calendar date the benefit would be implemented and police members would begin paying the contribution.

Mr. Cypen asked Ms. Jensen if the PBA would be willing to join the two other parties, other than the State, in asking the court to relinquish jurisdiction to possibly resolve the issue. Sgt. Gray stated that the State is worried about the case law. Mr. Cypen stated that the State is worried about the supplemental not the statute part.

Lt. Tabeek asked Sgt. Gray if he would be willing to ask the members of Delray Beach PBA to vote on joining the other parties and trying to resolve the case. Ms. Jensen stated that she would relay to her client what the Board put forth.

Sgt. Myers stated that the best scenario would be to fund the COLA to 4% per the contract and any excess monies would then be used to fund the overtime. Mr. Cypen stated that the actuary could determine when the COLA would be fully funded.

Lt. Tabeek made the motion to adjourn the special meeting at 2:05pm. Commissioner Frankel 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 Special Meeting of said body for January 20, 2010 which minutes are formally approved and adopted by the Police and Firefighters' Retirement System, Board of Trustees on February 17, 2010.



Charles Jeroloman, Chairman

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 to:	Members of the Board	Asst. Finance Director, M. Walinski
	City Commissioners	Finance Director, J. Safford
	City Manager, D. Harden	Human Resource Director
	Police & Fire Departments	Asst. City Attorney, T. Pyburn