

**July, 2014**

POLICE AND FIREFIGHTERS' PENSION BOARD  
REGULAR BOARD MEETING  
888 South Andrews Avenue, Suite 202  
Fort Lauderdale, FL 33316  
Wednesday, July 9, 2014, 12:30 p.m.

Present

Michael Dew, Chair  
Ken Rudominer, Vice Chair  
Scott Bayne, Trustee  
Richard Fortunato, Secretary  
Dennis Hole, Trustee  
Jim Naugle, Trustee  
Lynn Wenguer, Administrator  
Steve Cypen, Cypen & Cypen, Board Attorney

Absent

Jeff Cameron, Trustee

Also Present

Amanda Cintron, Assistant Administrator  
Laurie DeZayas, Pension Secretary  
Linda Logan-Short, Deputy Director of Finance and CFO  
John Herbst, City Auditor  
Fred Nesbitt, Director of Media Relations  
Kevin Schmid, CapTrust  
Jack Lokeinsky, FOP President  
Rick Maglione, Fort Lauderdale Police Dept.  
Paul Maniates, Fort Lauderdale Police Dept.  
Brian Meo, Fort Lauderdale Police Dept.  
Kermit Bougher, Retirees' Association  
Jack Cann, Retirees' Association  
Paul DeBold, Retirees' Association  
Rick Schulze, Retirees' Association  
Bill Spodwick, Retirees' Association  
Rick Theiss, Retirees' Association

Bob Dawson, Citizen  
Steve Sellars, Citizen  
Lisa Edmondson, Recording Secretary, Prototype Inc.

Communications to the City Communication  
None.

Note: Items were discussed out of order.

**ROLL CALL/CALL TO ORDER**

Chair Dew called the meeting to order at 12:30 p.m., roll was called, and a quorum was determined to be present.

**PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE**

The Pledge of Allegiance was followed by a moment of silence.

MINUTES: Regular Meeting: June 11, 2014

Motion made by Mr. Bayne, seconded by Mr. Naugle, to approve the minutes of the June 11, 2014 meeting. In a voice vote, the motion passed unanimously.

#### NEW HIRES:

Chair Dew recognized the new hires.

#### COMMENTS FROM PUBLIC

None.

#### BENEFITS:

POLICE DEPT.:	Survivor Death:	Jodi Szymanski
FIRE DEPT.:	Survivor Death:	Julia M. Doty

Motion made by Mr. Rudominer seconded by Mr. Hole, to approve payment of the Police and Fire benefits. In a voice vote, the motion passed unanimously.

#### INPUT FROM ACTIVE & RETIRED

##### POLICE OFFICERS & FIREFIGHTERS:

Mr. DeBold said they were still awaiting the actuary's report. Chair Dew agreed to call the actuary regarding this. Mr. Cypen said in all three cases in Hollywood, the State had ruled there was no entitlement to a thirteenth check.

##### CAPTRUST: Monthly Performance Review Kevin Schmid

Mr. Schmid reported it had been a quietly good quarter. The international and domestic large and mid-cap equity market had been up roughly 5%. The bond market was promising as well. He would provide the quarterly report at the next meeting.

Mr. Schmid said everything was close to the previous month but there was \$4 million less in cash.

##### COMMUNICATION DIRECTOR'S REPORT: Fred Nesbitt

Mr. Nesbitt had nothing to report.

##### CONSULTANT'S REVIEW

Ms. Wenguer said they had not received all responses back yet.

##### ADMINISTRATOR'S REPORT

###### Randy Trout's Academic Incentive Pay

Ms. Wenguer had updated this to include Mr. Trout's disability. Mr. Trout would receive \$21,785.99 but owed the 6% contribution of \$978.90 for a net of \$20,807.09.

Motion made by Mr. Fortunato, seconded by Mr. Hole, to approve Mr. Trout's Academic Incentive pay, subject to any legal defenses the Board may have in the event the amount is not satisfactory to Mr. Trout. In a voice vote, motion passed unanimously.

##### In-Service Distributions

Chair Dew reported he had been inundated with questions about this and he had met with Assistant City Manager Stanley Hawthorne; Mr. Cypen; the attorney handling this for the City; Mr. Klausner; Mr. Friedman; and staff involved. The meeting had brought everyone to the same understanding. Mr. Cypen said union representatives had not been at the meeting, but they would be involved in the solution, if appropriate.

Mr. Cypen stated everyone was working together to resolve this. He read a draft memo and distributed copies to Board members. He pointed out that each case was different and it would come down to the facts of each case. Chair Dew said the meeting had given them direction to move forward and the attorneys would offer solutions regarding the IRS regulations.

Mr. Rudominer wanted to ensure that the Board focused on preserving the tax-exempt status of the plan. Chair Dew confirmed this had been paramount. Mr. Bayne said there were two separate issues: the tax status of the plan and the members. Mr. Cypen added that the members had different rights depending on whether they were members of non-qualified plan versus a qualified plan.

Mr. Lokeinsky stated members deserved some kind of an answer on what may happen.

At this meeting, Ms. Wenguer confirmed that it was agreed that the plan sponsor, the City, would cover the cost of correcting this problem.

Mr. Bayne requested that any correspondence regarding in-service distributions be provided to Board members from now on.

Mr. Herbst stated until they knew the solution, and whether it would affect the collective bargaining agreement, there was no reason to bring the unions into the discussion. Once the solution was determined, if it would affect either of the collective bargaining agreements, the unions would be brought to the table.

Ms. Wenguer said it had been decided that as of now, there would be no more re-hiring of any retired City employees. Ms. Logan-Short stated this was not official yet.

Mr. Fortunato objected to not involving the unions. He stated, "If we're in violation of an IRS rule, we're making in-service distributions and the only way I see to correct it is to amend the ordinance to allow for in-service distributions. If at some point the City doesn't reach out to the unions to correct that, we're going to have to stop making payments to people. How long are we going to give the City to...attempt to correct the issue?" Mr. Cypen replied that there may be more than one solution.

Mr. Lokeinsky thought it was wrong for the Board and the City to address this without contacting the unions. He stated, "You exist because of me and my union, not because of the City. The City is a sponsor but we could take our pension and join FRS next negotiation." Chair Dew recalled the unions indicating they would not open the contract and he had decided they needed to get answers first. Mr. Hole asked if the contracts would need to be opened to comply with the law and Ms. Wenguer said the attorneys had indicated there were ways to get around it. Mr. Lokeinsky remarked that an ordinance change could not be imposed on members not in the bargaining unit, as these members were already separated.

#### Administrator's Review

Chair Dew distributed copies of Ms. Wenguer's review and the only changes they had agreed to make to the existing contract were to change her title to Executive Director; to have the opportunity for the buyback; and a 2% raise for each of the first two years and a CPI in the third year with a floor of .25% and a cap of 3%.

Mr. Hole felt the role of Executive Director had more responsibility and authority than an administrator, including the ability to sign contracts, make strategic plans and make decisions that affected financial operations. Ms. Wenguer said each type of organization was different. She said for pension boards, the person in charge of the pension plan was usually called the Executive Director.

Mr. Cypen said it was clear that Ms. Wenguer was the CEO. He said several titles were used, but administrator was used less and less.

Mr. Bayne asked Ms. Wenguer the significance of a title change and she said she wanted people to recognize that she was the person in charge of the plan. She stated she would not expand her activities because of the title change.

Chair Dew suggested they use the South Regional All Inclusive CPI figure for Ms. Wenguer's third year raise.

Mr. Cypen advised the Board to approve extending the current contract on a month-to-month basis in the event the new contract was not executed by the time the current contract expired.

Motion made by Mr. Rudominer, seconded by Mr. Hole, to approve the contract as proposed. In a roll call vote, motion passed 4-2 with Mr. Bayne and Mr. Hole opposed.

Motion made by Mr. Naugle, seconded by Mr. Rudominer, to extend Ms. Wenguer's current contract on a month-to-month basis until the new contract was signed. In a voice vote, motion passed 5-1 with Mr. Bayne opposed.

Ms. Wenguer stated the issue of the buyback of her pension time had been there since 2003. The Assistant City Attorney had indicated to her that she was not entitled to this buy-back currently but Mr. Cypen and Mr. Klausner felt it was clear in the ordinance that she was. She had spoken to Mr. Copertino, the new Assistant City Attorney working with the Board, and he had determined she had been eligible since 2003, so now she needed to payback her required employee contributions, plus the actuarial rate of return of 7.5%. Someone else had indicated that this must be collectively bargained but she had pointed out that it had been bargained in 2003. The person also stated an actuarial study needed to be done, but she had countered that the study had also been done in 2003. She said the City was "throwing every type of curveball they could to avoid allowing me this benefit."

Mr. Hole recalled that the Board had talked about setting up some sort of benefit program if the City did not offer to get Ms. Wenguer in its plan but the City had stated they would take care of it by putting her in their plan and allowing her to buy her time back. Mr. Cypen stated this was not a Board issue.

#### Contributions from GERS

For members that have transferred from GERS to P&F, Ms. Wenguer said Assistant City Attorney Copertino was not in favor of giving our plan 7.5% interest. Mr. Copertino was supposed to review this but he had not responded as yet. Mr. Cypen suggested the balance could be paid by the member. The Board agreed the City was responsible. Ms. Wenguer pointed out that the P&F plan was absorbing a lot of the cost by only taking 7.5% and not the full actuarial value. She agreed to inform Mr. Copertino about this. Mr. Cypen suggested Ms. Wenguer approach the City with her rationale regarding it being beneficial for the City to pay the 7.5%. If the City did not accept this, they could decide to accept 3%.

#### PENDING ITEMS:

##### New Business:

Mr. Rudominer thought the Board should consider changing its name to include the words Retirement Plan to better reflect what they did and to be in keeping with their mission statement. Chair Dew agreed the Board dealt with many additional issues and he felt it was a retirement system. He believed they would be selling themselves short if they considered themselves just the administrators of a trust. Mr. Rudominer felt the Board had neglected the retirement system aspect.

Chair Dew suggested Mr. Rudominer work with Mr. Nesbitt to amend the mission statement and bring a recommendation back to the Board. Mr. Rudominer agreed to work on a recommendation for a name change as well.

Mr. Naugle asked, "At what point would it make sense for this Board to take over...the administration of the diminishing General Employees plan?" Mr. Cypen stated when 99-1 was passed, General Employees had been forced to split from Police and Fire so this would probably not be approved. Mr. Naugle wondered if the Board could be hired as a third-party administrator.

##### Old Business:

Schedule A

No Discussion.

Communications to the City Communication: None.

#### FOR YOUR INFORMATION:

ConvergEx	Recapture Summary/May, 2014
Knight	Recapture Summary/May, 2014

There being no further business to come before the Board at this time, the meeting was adjourned at 1:54 p.m.

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