

**June, 2015**

POLICE AND FIREFIGHTERS' PENSION BOARD  
REGULAR BOARD MEETING  
888 South Andrews Avenue, Suite 202  
Fort Lauderdale, FL 33316  
Wednesday, June 3, 2015, 12:30 p.m.

**BOARD'S COMMUNICATION TO THE CITY COMMISSION**

**Items that may be of interest to the City Commission:**

- The ordinance amendment to the pension plan regarding the IRS determination letter must be presented to the City commission on first reading on June 16 and second reading on July 7 so it is finally adopted by the City no later than August 13, 2015.

Present

Michael Dew, Chair  
Ken Rudominer, Vice Chair  
Jim Naugle, Trustee  
Jeff Cameron, Trustee  
Scott Bayne, Trustee  
Lynn Wenguer, Administrator  
Robert Klausner, Board Attorney

Absent:

Richard Fortunato, Secretary  
Dennis Hole, Trustee

Also Present

Amanda Cintron, Assistant Administrator  
Laurie DeZayas, Pension Secretary  
Kevin Schmid, CapTrust  
Paul DeBold, Retirees' Association Vice President  
Kermit Bougher, Retirees' Association  
David Nickerson, Retirees' Association  
Amanda Alexander, Retirees' Association  
David Barnes, Retirees' Association  
Bill Sharp, Retirees' Association  
William Jacobson, Retirees' Association  
Rick Theiss, Retirees' Association  
W.R. Spodnick, Retirees' Association  
Ron Cohen Esq.  
Jack Lokeinsky, FOP  
Rick Maglione, FOP  
Stuart Kaufman Esq.  
Janette Smith, City Treasurer  
Russell Sanders, Retirees' Association  
Robert Friedman, Holland and Knight  
Jim Ingersoll, Retirees' Association President  
Fred Nesbitt, Communication Director  
Lisa Edmondson, Recording Secretary, Prototype Inc.

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: May 13, 2015

Motion made by Mr. Naugle, seconded by Mr. Rudominer, to approve the minutes of the May 13, 2015 meeting. In a voice vote, the motion passed unanimously.

Special Meeting: April 22, 2015

Motion made by Mr. Rudominer, seconded by Mr. Naugle, to approve the minutes of the April 22, 2015 meeting. In a voice vote, the motion passed unanimously.

**COMMENTS FROM PUBLIC**

None.

**BENEFITS****POLICE DEPARTMENT:**

New Retiree:	Mark A. Parnell
(Term of DROP)	Stanley Ragin
Vesting:	Jason VanChoff
Lump Sum Refund:	Jason Holding
	Christopher Sousa
	James E. Wells

Motion made by Mr. Rudominer, seconded by Mr. Cameron, to approve payment of the benefits as stated. In a voice vote, the motion passed unanimously.

**BILLS:**

Nyhart	\$1,000.00
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Motion made by Mr. Bayne, seconded by Mr. Rudominer, to approve payment of the bills as stated. In a voice vote, the motion passed unanimously.

**INPUT FROM ACTIVE & RETIRED POLICE OFFICERS & FIREFIGHTERS**

Mr. Ingersoll thanked the Board for all they did for retirees.

**CAPTRUST Kevin Schmid****Monthly Investment Review**

Mr. Schmid reported the Vaughn Nelson contract was in review with Mr. Cypen.

Mr. Schmid said the Entrust Opportunities Fund was still under the cap. Boyd Watterson had agreed to lower their fee from 17 basis points to 15.

Chair Dew said if Mr. Schmid had limited information for the Board, he could provide a monthly report via email rather than appearing before the Board.

**COMMUNICATION DIRECTOR'S REPORT**

Fred Nesbitt

Mr. Nesbitt had nothing to report.

**EXECUTIVE DIRECTOR'S REPORT**

### Retiree COLA Letter dated March 18, 2015

Mr. Klausner said he had investigated further pursuant to Chair Dew's inquiry regarding whether anyone would be eligible for a COLA after the sunset of the 1986 COLA ordinance in 2008. He explained that anyone retired or eligible to retire on July 1, 1986 the day before the sunset of the ordinance, was still eligible for a COLA under a 1972 ordinance. Mr. Klausner stated having any benefit subject to a condition was not unusual. He said another condition of this plan was compliance with Chapters 175 and 185, which in turn required compliance with Chapter 112, which concerned plans' actuarial soundness. Mr. Klausner stated, "The ability to give a COLA based on anything other than actuarial gains to the plan, I think, is a condition of maintaining compliance." He acknowledged there were different views on this.

Mr. Klausner stated Ms. Wenguer was determining who was in the class prior to the sunsetted ordinance and would therefore be covered by the 1972 ordinance so they could determine what paying a COLA would cost. He said in order to be eligible for a COLA under the 1972 ordinance, there must be gains under certain parameters.

Chair Dew said Ms. Wenguer would continue to compile the list and they would provide Mr. Cohen time to review Mr. Klausner's opinion.

Mr. Klausner described the factors that would affect the requirement that the fund had posted a gain in order to pay the COLA. He added he and Mr. Cypen had discussed this at length and had come to the same conclusion.

### Interest on Employee Contributions Discussion

No discussion.

### IRS Determination Ordinance Change Update

Mr. Friedman said the most recent letter had been received in January and the ordinance changes must be approved by mid-August. Assistant City Attorney Dunckel was working on this and was aware of the deadline. Ms. Wenguer had spoken with Mr. Dunckel, who informed her that the in-service distribution language needed to be approved separately. Chair Dew asked Mr. Friedman to speak with Mr. Dunckel to let him know the City Commission must get this passed in June because of their break in July. Chair Dew noted if this did not pass by then, the fund would lose its tax qualification status.

### In-Service Distributions Update

Chair Dew referred to a letter by Robert Friedman, Holland and Knight, regarding separation of service and 72(t) tax issues.

Mr. Rudominer wished to remove the word "recently" from the first sentence. He asked why the members were advised to contact Ms. Wenguer and Chair Dew stated after the letters were sent, they would hold a follow-up meeting for members to ask questions. Ms. Wenguer said she was acting as point person. Chair Dew said Assistant City Manager Hawthorne would coordinate the meeting with Bill Coleman, the City's attorney, Mr. Friedman and Mr. Klausner. Mr. Klausner suggested members be advised to email Ms. Wenguer so communications would be documented. Chair Dew said members should consider their questions in preparation for the meeting and not send these requests to Ms. Wenguer. Mr. Bayne wished to add "IRA or another qualified plan" to the first paragraph. Chair Dew wished to add that members would be notified about a future meeting regarding this.

Motion made by Mr. Bayne, seconded by Mr. Rudominer, to accept the letter as amended. In a voice vote, motion passed unanimously.

Members present received their copies of the letter.

Mr. Friedman explained that the correction method was to amend the ordinance to allow in-service distributions and create a retroactive term to have in-service distributions to avoid non-compliance. This did not affect the tax consequences. Mr. Klausner stated this concerned whether there was an early distribution and Mr. Friedman explained in order to qualify for the tax exception, one must have a bona fide separation.

Mr. Friedman explained that at age 59 ½ the distributions were not subject to the 10% tax. If someone received a payment prior to age 59 ½, it might meet an exception to the tax if there was a bona fide separation from service.

Mr. Rudominer asked if members needed their own counsel and Mr. Klausner stated, "If I was one of these people, I'd certainly seek some advice." He said, "Every single one of these is fact-dependent and everybody's facts are different than everybody else's." Mr. Friedman noted that most individuals' tax returns had a three-year limitation period; after three years from the date the return was filed, they were under no obligation to amend the return if it was discovered something was incorrect.

Chair Dew discussed reserve officers, who retired, rehired and paid a stipend and Mr. Friedman said the IRS still considered these people employees. Mr. Klausner said there did not seem to be a distinction for bona fide separation between part-time and full-time employees. Mr. Lokeinsky confirmed that part-time reserve officers were called part-time police officers in order to have the statutory right to act as police officers and were therefore employees.

#### City Indirect Services Charges

#### Discussion

Ms. Wenguer had been notified by Ms. Logan-Short that the City would also be charging for accounting services. Chair Dew said the cost would be approximately \$90,000 per year. Ms. Wenguer said Northern Trust could process payments and they estimated it would cost approximately \$20,000 per year. Ms. Wenguer would meet with ADP to get information about pricing. She also suggested hiring a part-time bookkeeper to reconcile bank accounts and perform journal entries.

#### Prior GERS Service for Vested and Retired Members

#### Draft

Ms. Wenguer said she and Mr. Cypen had edited the letter for retirees to inform them that they could purchase it whenever they wished but they would not experience an increase in benefits until the monies had been paid.

Motion made by Mr. Rudominer, seconded by Mr. Naugle to approve the letter. In a voice vote, motion passed unanimously.

#### Affiliated Agencies Prior Service

#### Discussion

Ms. Wenguer had met with the City Attorney, who stated they would be working on an ordinance change.

### PENDING ITEMS

#### New Business

#### Senate Bill 172

Mr. Kaufman reported Senate Bill 172 had passed and would be effective July 1, 2015. Their only concern was getting a budget in place and making it available to the plan sponsor and members. Chair Dew asked about additional expenses and Mr. Kaufman explained Senate Bill 534 required additional reporting in the actuarial evaluation. Mr. Kaufman described the changes to the share plan.

Mr. Ingersoll said the Bill specified that half the additional premium taxes received above the 2012 level must be split between special benefits paid into a share plan, which he understood only affected firefighters. The other 50%, plus the police part, was used by the plan sponsor to offset defined benefit plan costs. Mr. Kaufman stated this allowed the City to use the funds to pay the unfunded liability of the plan. Mr. Rudominer pointed out that "even if they got 100% of 175 money, the actuarial gains aren't going to go up or down because they're not putting any extra money in; they're just substituting the money they were going to put in..." Mr. Kaufman confirmed that if the City agreed with the unions and had mutual consent, the money could be used for a COLA.

#### Saxena White

Ms. Wenguer said they received a letter from Saxena White every day and she checked with Northern Trust and confirmed they were filing paperwork on the plan's behalf.

#### Old Business

#### Schedule A

No discussion.

#### Communications to the City Commission

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than August 13, 2015.

FOR YOUR INFORMATION:

Senate Bill 172

Saxena White

Knight

Memo dated May 27, 2015

AIG 2008 Litigation

Recapture Summary/April, 2015

There being no further business to come before the Board at this time, the meeting was adjourned at 1:50 p.m.

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