

September 2009



POLICE & FIREFIGHTERS' PENSION BOARD REGULAR MEETING

Pursuant to authority of Ordinance C-00-34, Article II, this regular meeting of the Police & Firefighters' Pension Board convened at 10:05 A.M., Wednesday, September 2, 2009 in the Pension Board Conference Room, 888 S. Andrews Avenue, Suite 202, Ft. Lauderdale, Florida 33316.

PRESENT:

Michael Dew, Chairman
 Mark Burnam, Vice Chairman
 Dennis Hole, Secretary
 Ken Rudominer, Trustee
 Richard Fortunato, Trustee
 J. Scott Bayne, Trustee
 Steve Cypen, Cypen & Cypen, Board Attorney
 Lynn Wenguer, Administrator
 Rachel Maldonado, Assistant Pension Administrator
 Laurie DeZayas, Pension Secretary

ABSENT:

Jim Naugle, Trustee

ALSO PRESENT:

Eric Pologruto, Asst. Fire Chief
 Jeffrey Justinak, Asst. Fire Chief
 Fuzzy Larkin, Retirees' Assoc.
 Jack Chew, Retirees' Assoc.
 Fred Nesbitt, Director of Public Relations
 Ray Coons, Firefighter
 David Farrand, Attorney, Cypen & Cypen
 Robert Friedman, Attorney, Holland & Knight
 Gregg Gurdak, President, Retirees' Assoc.
 Michael Kinneer, Ex-Officio Member

ASSET VALUE as of August 31, 2009: \$385,709,836

Chairman Dew called the meeting to order at 10:05 a.m.

Communications to City Commission

- Chairman Dew has addressed Commission/ Mayor on Pension Ordinance amendments including: reinstatement of COLA clause, removing remarriage penalty for widows, refining language for Police O/T, extending trustee term to 4 years.
- The Board would like the Commission to review the Pension Protection Act of 2006 (PPA) and the Heroes Earning Assistance & Relief Tax Act of 2008 (HEART) to ensure that the City is in compliance with its provisions.

MINUTES: Motion made by Mr. Hole, seconded by Mr. Fortunato, to waive the reading of the minutes for Regular Meeting, August 12, 2009, and approve them as a whole. Chairman Dew noted that the actuaries who were partnering with Stanley Holcombe were hired for the State not the City. With no further discussion, the **motion** carried unanimously.

BENEFITS REVIEW:

FIRE DEPARTMENT	BENEFIT TYPE	RETIREMENT DATE	TERM DATE	FORM OF BENEFIT
Shari L. Marshall	Term of DROP	09/10/2004	09/09/2009	Life Annuity
Anthony Peavy	Term of DROP	09/10/2004	09/09/2009	100% J&S
Kenneth Thawley	DROP Retirement	08/24/2009	08/23/2014	Life Annuity
POLICE DEPARTMENT	BENEFIT TYPE	RETIREMENT DATE	TERM DATE	FORM OF BENEFIT
Jorge Benitez	Term of DROP	09/26/2004	09/25/2009	100% J&S
Raymond Martucci	Term of DROP	09/14/2004	09/13/2009	100% J&S

Janice Jordan	DROP Retirement	08/23/2009	08/22/2014	100% J&S
Michael Mann	Lump Sum Refund		08/18/2009	

Motion made by Mr. Rudominer, seconded by Mr. Bayne, to waive the reading of the benefits and approve them as a whole. In a voice vote, the **motion** carried unanimously.

BILLS: The following bills were submitted:

- Prudential for management fees through 06/30/2009 in the amount of \$23,577.65.
- BNY Mellon for management fees through 06/30/2009 in the amount of \$5,357.66.
- Stanley Holcombe for professional services through 08/02/2009 in the amount of \$5,050.00.
- Cornell Lupu, MD for professional services in the amount of \$1,300.00.
- Holland & Knight for professional services through 06/15/2009 in the amount of \$150.00.

Motion made by Mr. Bayne, seconded by Mr. Hole, to waive the reading of the bills and approve them as a whole. Mr. Rudominer clarified that Prudential's fees were in accordance with their contract. In a voice vote, the **motion** carried unanimously.

PRESENTATION, Robert Friedman, Holland & Knight:

Holland & Knight is an international law firm with 1500 lawyers. Mr. Friedman, as a premier pension/tax lawyer, addressed the Board to expand on the Pension Protection Act of 2006 and other important issues facing public pension plans.

The Plan, of course, is exempt from ERISA laws, minimum participation, certain coverage rules, and annual reporting requirements (Form 5500). It is, however, subject to IRS 415 limits, USERRA legislation, minimum distribution at age 70 ½, and exclusive benefits rules.

In 2005, a new system was created for plans to file a determination letter via a Staggered Remedial Amendment Cycle. It would take five years to complete cycles labeled A through E. All government plans were placed on Cycle C, which was scheduled to end on January 31, 2009. Many of the plans current documents were not in shape. Some of the Boards didn't meet regularly. IRS allowed plans to file in Cycle E (Jan. 31, 2011) on a one-time exception. We filed with Cycle C and our next filing is in 2014.

In order to apply for a determination letter, our Plan needed to show that we had been timely in amending for tax law changes since our prior determination letter. Instead, we had no such prior letter and our plan documents were out of compliance. The IRS created a streamlined process to apply for a compliance certificate that would allow the plan to be considered for a regular determination letter within their scheduled cycle. Our Plan took these steps and completed them in January 2009. There were twenty other plans whose situations were the same. Only half have been assigned to an IRS agent to complete the compliance certificate. Our Plan has still not been assigned to anyone since January.

Mr. Friedman reported to the Board that a draft of pension ordinance changes was submitted to the IRS. These are changes in accordance with tax laws. When the determination letter is issued, the changes in the draft will be submitted to the City. Chairman Dew brought up the four pension ordinance changes that the Board is already seeking, and asked if the two sets of changes should be combined and brought to the Commission at the same time. Mr. Friedman thought it wasn't necessary to combine them, especially because the date that the letter will be returned by the IRS is unknown.

Mr. Friedman then discussed the Pension Protection Act of 2006 (PPA) and the Heroes Earning Assistance & Relief Tax Act of 2008 (HEART). In regards to the PPA, no changes are mandatory at this point. The Board had already implemented the \$3000 applied towards a retirees' health insurance. There were some other provisions that were available on a Federal level but, due to certain State regulations, do not apply to our Plan, like purchasing service credits and hardship withdrawals. The Board will consider allowing rollovers for beneficiaries that are not spouses. This is a no-cost item.

Under the HEART act, most of the non-mandatory changes also did not apply to our Plan. In addition, the biggest discussion was around whether there will be a minimum age to retire that will eliminate Fort Lauderdale's "20-and-out" clause. At this time, it is a non-issue. However, should it ever come to pass, the Retirement System will have to be completely changed.

INVESTMENT POLICY, Jason Pulos (via telephone): Mr. Pulos reviewed all of the language changes and the allocation mixes that had been previously discussed by the Board. **Motion** made by Mr. Rudominer, seconded by Mr. Burnam, to approve the Investment Policy with its proposed changes. The Board requested that 31 days after the City receives the updated policy, they would like to discuss rebalancing recommendations. With no further discussion, the **motion** carried unanimously.

The Board also inquired on the progress into the review of GTS. Mr. Pulos reported that he had not been able to contact references. He said he would have it before the next meeting.

NON-SERVICE INCURRED INFORMAL DISABILITY HEARING, Raymond Coons: Mr. Steve Cypen, Board attorney, addressed the Board on the significance of an informal disability hearing. It is a process that helps expedite those cases deemed as a "slam dunk". In a non-service incurred disability, the Board must find that the disability is permanent and total; "total" denotes that the City has no other jobs

available to the employee because of his/her disability. Mr. Cypen reviewed the key items in the disability packet including, but not exclusive to, each of the doctors' conclusions and the Job Specifications.

Assistant Chief Jeffrey Justinak gave sworn testimony that Mr. Coons' employment contract would be terminated on September 15th. At that point, he would have been absent from his job for two years and the department is not able to accommodate Mr. Coons' disability.

Mr. Cypen asked the Board to grant, deny, or defer the approval of Mr. Coons' application for disability. **Motion** made by Mr. Bayne, seconded by Mr. Rudominer, to grant the Non-Service Incurred Disability, finding that the disability occurred 91 days prior to the day of the September Board meeting. In a voice vote, the **motion** carried unanimously.

Mr. Coons thanked the Board and shared his thoughts on what it meant for him to serve as a Firefighter in Fort Lauderdale.

Chairman Dew called for a 10-minute recess.

INPUT FROM ACTIVE & RETIRED POLICE OFFICERS & FIREFIGHTERS: None reported.

ADMINISTRATOR'S REPORT – PPA Committee: In regards to the Pension Protection Act, Mr. Rudominer and Mr. Hole volunteered to participate on the Committee that would ensure that the pension ordinance changes as identified by the IRS would be addressed. Mr. Fortunato was also volunteered. The committee will not begin until the IRS returns its results.

Commission Meeting Updates: Chairman Dew reported that he spoke to Commissioner Rogers about the original Pension Ordinance changes as discussed by the Board and Mr. Rogers did not have any issues or concerns about them being approved.

Randall Stanley's Letter: Ms. Wenguer referred to a letter from Stanley Holcombe dated August 18 that gave the amount available for purchase to increase Police O/T. The Board will wait for the FOP to indicate the next move.

Frank Colleran: Mr. Colleran could not attend the September meeting so the discussion on his formula and Me Too II will be postponed until the October meeting.

Board Credit Cards: Ms. Wenguer discussed the new cards that will be for travel expenses. Once the account has been opened, each trustee will receive a card as an authorized user of that account. Chairman Dew asked Ms. Wenguer to look into this as a way to expedite expense reimbursements. The travel policy will remain the same. Ms. Wenguer was asked to obtain a form letter expense report so that all trustees could fill out in the same manner when seeking reimbursements.

Future Disability Packets: The Administrator asked if the Board would be willing to receive disability packets electronically. The last disability packet numbered over 300 pages and 10 copies are required. She suggested having the doctors' conclusions sent via hard copy, and the whole packet emailed to the Trustees. This would save time and paper for all involved. Mr. Cypen noted that another Board he works with sent everyone the file on a jump drive. The Board liked the idea of the drive or a disc in addition to the hard copy of the medical conclusions.

Commission Bullet Points: The following bullets were approved to share with the Commission:

- PPA and HEART Act
- Ordinance changes

NEW BUSINESS – Trustee Binders: Ms. Maldonado informed the Board that she would be reducing the amount of Trustee Binders to 2 or 3. They are seldom used and take up space, paper, and ink. The Board agreed that it was a good idea.

OLD BUSINESS – Status of Mailings: Mr. Hole inquired about the status of the Board mailings that went to out-of-state survivors verifying benefits and all money managers verifying disclosure. Ms. Wenguer reported that certified second notices will go out for any responses that are still outstanding.

SPD Booklet: Mr. Hole asked if the proofs from the print shop had been returned for the new SPD. The Administrator confirmed that they had but the first set needed to be darkened.

Administrator Evaluation: Chairman Dew brought an evaluation summary for all to review. However, he noted that two of the Trustees did not turn in an evaluation. After much discussion about the way the evaluation was completed, Mr. Hole asked that the remaining two evaluations be turned in out of fairness to Ms. Wenguer. He wanted to defer the discussion until the October Board meeting. In addition, any discussion or vote on Ms. Wenguer's related increase was deferred until the October meeting.

Motion made by Mr. Rudominer, seconded by Mr. Bayne, to adjourn the meeting at 1:18 P.M. With no further business brought before the Board, the **motion** carried unanimously.

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