September, 2013

POLICE AND FIREFIGHTERS' PENSION BOARD
REGULAR BOARD MEETING
WEDNESDAY, SEPTEMBER 11, 2013, 12:30 P.M.

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

Also Present
Amanda Cintron, Assistant Administrator
Laurie DeZayas, Pension Secretary
Kevin Schmid, CapTrust
Doug Wood, director of Finance
Steve Malinowski, GTS
Robert Friedman, Holland & Knight
Lisa Edmondson, Recording Secretary, Prototype, Inc.
Gregg Gurdak, Retirees' Association
Harry Wood, Retirees' Association
Jack Cann, Retirees' Association
Janie Carreras, Retirees' Association
Robert Simac, Deputy Fire Chief
Paul DeBold, Retirees' Association
Bruce MacNeil, Retirees' Association
Anne Lindie-MacNeil, Retirees' Association
Linda Soloman-Duffey, Retirees' Association
Rick Schulze, Vice President of the Retirees' Association
Fuzzy Larkin, Retirees' Association
Fred Nesbitt, Director of Media Relations

Communication to City Commission
None.

Pursuant to authority of Ordinance C-00-34, Article II, this regular meeting of the Police & Firefighters' Pension Board convened at 12:30 P.M., Wednesday, August 14, 2013, in the Pension Board Conference Room, 888 S. Andrews Avenue, Suite 202, Ft. Lauderdale, Florida 33316.

Items were discussed out of order.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE
Chair Dew called the meeting to order at 12:30 p.m. and roll was called. All present recited the Pledge of Allegiance and observed a moment of silence.

MINUTES:
Regular Meeting: August 2013
Mr. Hole suggested the motion indicate that the Board was approving the minutes. Mr. Cypen agreed.

Mr. Hole noted on page 12, he was discussing funding policy, not investment policy in the last line of the 7th paragraph.

Ms. Wenguer stated the 415 limits mentioned at the bottom of page 2 should be 401A limits.

Motion made by Mr. Bayne, seconded by Mr. Hole, to approve the minutes as amended. In a voice vote, motion passed 7-0.

NEW HIRES:
New Hires were recognized.

BENEFITS:

POLICE DEPT:	Vested Retirement:	Michael DiMaggio
		Robert Mocarski
	Benefit Change:	Eugene McCoy
FIRE DEPT:	Retiree Death:	Anthony Scriveri

Ms. Wenguer confirmed that Mr. McCoy was the last person to change his benefit because of the 401A limits.

Motion made by Mr. Rudominer, seconded by Mr. Fortunato, to approve payment of the Police and Fire benefits. In a voice vote, motion passed 7-0.

BILLS:

Prudential	$45,048.95
Milliman	$3,500.00
Foster & Foster	$1,200.00

Ms. Wenguer asked if the Milliman bill needed to come back to the Board since they had already approved the proposal. Mr. Cypen said it did not.

Motion made by Mr. Rudominer, seconded by Mr. Hole, to approve payment of the bills as documented. In a voice vote, motion passed 7-0.

INPUT FROM ACTIVE & RETIRED POLICE OFFICERS & FIREFIGHTERS:
Letter from Retiree's Organization Memo dated Aug. 20, 2013
Rick Schulze, Vice President of the Retirees' Association, said a formal request has been made on April 20 for an item to be put on the Board's agenda regarding why Whitey Grimm had not been granted a COLA to which he was entitled under this contract. Mr. Schulze recalled that at the February 17 annual meeting Mr. Cypen had been asked about it and agreed to respond within two weeks but this had not happened to date.

Chair Dew stated this was not correct. The Board had received a letter on September 9 from Mr. Klausner. Mr. Cypen clarified that he had not been asked for this opinion; Mr. Klausner had been retained to renderthat opinion. At the annual meeting Mr. Cypen had stated that Mr. Klausner would have the opinion within two weeks.

Chair Dew informed Mr. Schulze that per Mr. Klausner's opinion, the decisions and administration of the COLA that had been done in the past were correct and there were no additional COLAs that they had the opportunity to give.
Mr. Schulze wanted to know who was responsible for this determination: the Board, Mr. Cypen or Mr. Klausner. Chair Dew explained that this was an accumulation of actuarial returns, which indicated whether they were eligible and able to pay any type of COLA. Since 2001 the actuary had determined that they were not in compliance as far as having additional funds, as the ordinance was written. This had been confirmed by the Board, and they had voted to approve the actuary's report. Chair Dew provided Mr. Schulze with a copy of Mr. Klausner's letter and Mr. Schulze argued this was not addressed to the retirees. Chair Dew pointed out that Mr. Klausner had been asked to respond to Chair Dew in writing. Mr. Cypen explained that legal opinions were sought for the Board only. Chair Dew agreed that the letter would be forwarded to the Retirees' Association attorney.

Mr. Schulze expected Mr. Klausner would be at this meeting. Ms. Wenguer informed everyone that Mr. Klausner could be reached by phone. Chair Dew said if Mr. Klausner attended the meeting they would need to discuss who would pay him to attend. Mr. Schulze asked why Mr. Klausner had been asked for an opinion; he said this responsibility should have been Mr. Cypen's, since he was the one who interpreted ordinances and advised the

Board. Chair Dew advised Mr. Schulze should speak to the Association President. He explained that the President had been unsatisfied with Mr. Cypen and the Board's opinion and had requested Mr. Klausner be asked for another opinion.

Mr. Schulze stated the Association Board was not happy with this answer and they would address this matter at their meeting later in the day. He remarked, "The chance for legal action is more than great."

Mr. Rudominer wanted to discuss something on page 2 of Mr. Klausner's letter. Mr. Cypen stated regardless of the threat of legal action, the Board had a responsibility to discuss this in the open. Mr. Rudominer asked about a line in the letter that said, "Reduction by active employees also affected retirees" and asked if this related to Mr. Schulze's question. The legal opinion rested in the analysis of the case on page 1 and in the constitutional provisions.

<u>GTS: Summary Review</u> Steve Malinowski

Mr. Malinowski stated GTS was the Board's brokerage consulting firm and they helped to advise and structure the risks and transaction costs with movements within the fund if there was asset re-allocation or a manager change. GTS also performed an annual audit and review of how the external managers' brokerage practices and trading practices compared to industry standards.

Mr. Malinowski referred to page 3 of the report and said this analysis was performed for the calendar year March 2012 - March 2013. Based on the five managers for which they had obtained transaction data, he said there had been just under $200 million of secondary trading. There had been 8,600 individual transactions, and GTS looked for how widely distributed the managers executed trades and to whom they had paid commissions. In this case the distribution was over 72 brokerage firms, indicating there was no concentration with any particular relationship. This indicated to GTS that the managers had a broad outlook regarding finding the best possible price for buying and selling securities.
Mr. Malinowski confirmed for Mr. Cypen that this analysis was included as part of their service; there was no additional cost to the Board.

Mr. Malinowski continued that the average execution cost was 38 basis points, which was in the median range compared to the peer group industry average. Mr. Malinowski remarked this was consistent with what he normally saw. By individual manager, Mr. Malinowski noted that Systematic, Sawgrass and Eagle Asset were at the high end of the range.

Mr. Malinowski recalled that someone on the Board had asked if transaction costs associated with the recapture program were in line with the transaction costs with the policy or if there were additional expenses to having the policy. GTS had performed a sub-analysis on recapture performance and determined that on a net basis this equated to 13.5% of the total and the transaction costs associated with the recapture program were approximately -44.91. Mr. Malinowski said this deviation was not overly significant.

Ms. Wenguer asked where Mr. Malinowski had found the recapture data and he explained that there were firms that specialized in recapture trade. Ms. Wenguer said the Board used LGR and Knight and Mr. Malinowski explained that the transaction data he received from the custodian was very difficult to map to trading. He said he would like to incorporate the capture data from ConvergEx and Knight that had been provided to the Board.

Ms. Wenguer asked where the recapture went and if they were missing out on something. Mr. Malinowski said this depended on how it was executed and bought. Some executing brokers cleared through another firm and in that case, the custodial data would not reveal where it went. Mr. Rudominer added that this analysis did not take into account any profit they made in the recapture.

Mr. Malinowski said one manager, Systematic, had very high transaction costs. Mr. Schmid and Mr. Malinowski had spoken with senior management at Systematic and discovered that they had a very sophisticated trading strategy which, by definition, would incur higher transaction costs. Mr. Malinowski said if he removed Systematic from the database, or the average costs decreased "quite a bit" compared to the peer group, they would be ahead of the benchmark.

Mr. Malinowski requested the opportunity to fill in the information that had not been considered in the analysis. He stated it appeared that the policy itself did not add any "exceptional deviation" to average transaction costs. The transaction costs appeared "very reasonable" and the dollars involved were very small in proportion to the overall costs associated with the managers.
Ms. Wenguer noted that Eagle was also much higher than the others and Mr. Malinowski reported he intended to run a separate analysis on Eagle as of the end of the year.

Mr. Schmid felt this was good information for the Board. He said trading costs were factored into the total returns so a manager who had higher than average trading costs would see his performance suffer. Mr. Schmid said he and Mr. Malinowski could speak with senior management at Eagle to discuss their higher trading costs.

Mr. Hole referred to page 6 of the report and stated Bloomberg had 43% of Eagle Asset's trades. Mr. Malinowski explained that Bloomberg was in an electronic network and was "like an Internet aggregator" and this high number was to be expected. He said the custodian was responsible for booking the trade and settling the trade on behalf of the manager but his job stopped there; he would not know that Bloomberg was the routing platform to another broker. Mr. Malinowski said the purpose of this analysis was to find red flags that required investigation and to identify any changes in behavior that could lower costs. Mr. Bayne asked about Themis and Mr. Malinowski said this was another electronic routing firm. He stated out of 72 brokerage firms, there were approximately 10 firms that were primarily aggregators and the balance were a combination of a variety of brokerage services.

Mr. Cypen confirmed with Mr. Malinowski that he had performed in accordance with his contract and he had not received any compensation direct or indirect, explicit or implicit, other than strictly pursuant to the contract.

CAPTRUST: Kevin Schmid
<u>Active vs. Index Education</u>
<u>Monthly Performance Review</u>
Mr. Schmid recalled that the Board had wanted to revisit a discussion on indexing. He said originally, they had four large-cap managers, one indexed manager and three active managers, but once the pension obligation proceeds came in, all of those assets had been directed toward indexing in an effort to get indexing to be a greater percentage of the large-cap equity. He said their informal goal was to have 50% indexed and 50% active.

Mr. Schmid had put together information the trustees had requested at the last meeting, including the scenarios Chair Dew had requested comparing the current structure with a structure that eliminated active managers.

Mr. Schmid said over the past five years it has been a struggle for active managers to add value versus their benchmarks. Indexes for the past three and five years tended to be in the top quartile of their peer groups on a net of fees basis. Page 6 of the report reflected the cyclical nature of this. Mr. Schmid said over three years across all equity asset classes there were periods when indexing had performed very well and they were periods when active management performed very well. Particularly in a large-cap blend and large-cap growth areas, they appeared to be close to cyclical peaks in terms of how the indexed performed.

Mr. Schmid pointed out that it was a lot easier for small-cap managers to outperform their benchmarks, which was why they did not use indexing there. Mid-caps were cyclical and the index had tended to do well with them, which was why they used indexing there. Mr. Schmid said for large caps their general preference was to have a mix of indexed and active because they believed that long-term, active managers had the ability to outperform their benchmarks, but they were subject to short and intermediate term periods of underperformance which was sometimes significant. Having the blend between indexed and active lowered the cost profile and dampen volatility.

Mr. Schmid stated equity index strategies generally outperformed active strategies when stocks in the market were high. Active management strategies relied on stock selection, so if stocks were moving together in one big block it was more difficult for managers to differentiate themselves. Mr. Schmid said usually index strategies did better in rising markets and worse in declining markets with some exceptions. A stock that had performed better would become a larger part of the index, so if that stock declined significantly this would affect the entire index. Active managers tended to hold cash in the 2% to 3% range but when equity markets were up 20% or more, having 2% cash was a big price to pay.

Mr. Schmid stated they had performed an analysis of three portfolio scenarios compared to their current scenario. He explained that if they went into all indexed, they would save $252,000, or 3 basis points on the overall plan return. Mr. Schmid said over the past 3 and 5 years, any combination of the active managers trailed behind the benchmark but over the past 10 years, closer to a full market cycle, active managers added value versus the benchmark.

Mr. Schmid said since INTECH had been in the plan, beginning in 2004, it had outperformed the S&P 500 by approximately 1% per year, annualized net of fees; for the past three years, it had been 14 basis points behind and in the past five years it had been 10 basis points ahead. This put them slightly below median for a three and five year period. Mr. Schmid noted that the CEO of INTECH had left the firm the previous year and now the CIO was also acting as the CEO as well. As INTECH was a quantitative firm, Mr. Schmid stated there was not a lot of fundamental research they needed to do.

Mr. Schmid stated Sawgrass had been in the plan since 2007. Since inception, they had underperformed by 40 basis points net of fees. Over the past five years they had outperformed by 45 basis points. He pointed out that over the last 3 and 5 years their risk-adjusted return numbers were "off the charts." The one negative for Sawgrass was that they were the most expensive manager, at 50 basis points.

Mr. Schmid said Systematic had been in the plan over 10 years and over that time they had outperformed the benchmark by 130 basis points per year, annualized net of fees, but over three and five years, were 1% behind. He said they had significantly underperformed the benchmark in negative periods which he did not like to see. They also tended to have high trading costs.

Mr. Schmid said when he looked at this analysis, he saw managers who had added value on a risk adjusted basis over the long term but had struggled in the short term. He said they needed to decide if they felt cyclicality would continue or if something had structurally changed so that active management would not outperform any longer. Mr. Schmid felt the cyclicality would continue and he preferred the current structure over any of the other scenarios.

Chair Dew said the Board had a fiduciary responsibility to improve the performance of the fund and to consider overall costs. He wondered why they would keep INTECH, considering the cost versus overall performance. Mr. Schmid agreed that INTECH was the obvious redundancy because they were a core manager and the index was a core index but he pointed out that performance-wise they were the most consistent outperformer. Mr. Schmid stated INTECH could be categorized as an enhanced index. He said Systematic concerned him the most. He did not like how they had performed in the last two downturns and there was also a trading cost issue. Mr. Schmid was willing to ride out a bad period with a manager who had a good track record; he was less tolerant of underperformance in negative markets.

Mr. Hole asked if additional costs would be the same for equal weighted. Mr. Schmid said equal weighted was a bit more expensive but the primary benefit was the increased mid-cap exposure, shifting the asset allocation.

Chair Dew felt Mr. Schmid had provided some compelling arguments and justified maintaining the current status. He suggested the Board could consider replacing Systematic and asked Mr. Schmid for possible alternative. Mr. Schmid agreed to compare Systematic to other alternatives in the large-cap value area. He said they had no other clients with Systematic. Chair Dew said the Board had reviewed their list of priorities and were considering "surgical repairs."

Mr. Naugle felt that since Systematic's overall performance had been good, they may be on their way up again. Chair Dew wanted the opportunity to see what else was available. Then they would be prepared to act when they needed to.

Mr. Rudominer thought they should consider alternatives to Sawgrass as well, since they had performed worse and had substantially higher fees.

Mr. Bayne asked how Mr. Schmid judged performance and Mr. Schmid explained that he looked at managers year-by-year and over the longer term, up to ten years. Systematic had a very bad year in 2011, which was bringing their long-term numbers down. Mr. Bayne agreed that it had been a relatively short down period for Systematic so

he would not be in favor of getting rid of them. Mr. Rudominer felt Systematic was aware of their negative performance and wondered if this would affect how they invested. Mr. Schmid said if they could make improvements to their risk controls on the margins to avoid doing what they had done in 2011 and 2012 that was fine, but if they made wholesale changes to their management process he would consider that a bigger red flag than if they took no action. He had not noticed any significant changes in their portfolio approach. Mr. Schmid felt a lot of the problem was due to sector allocation.

Chair Dew said Mr. Schmid would continue to monitor Systematic's performance and stay the course and if something occurred outside his tolerance level he would inform the Board. At the same time, Mr. Schmid would look into an alternative course of action.

Mr. Rudominer wondered if they should weight the portfolio more toward the value and less toward growth if they were trending toward a possible down market. Mr. Schmid said unless there was a wide disconnect between value and growth, he stayed with relatively equal weight between growth and value. He did not see any compelling indicator that they should change the weighting.

Chair Dew asked about PIMCO and Mr. Schmid said in the long term, he would like to see this as less of the portfolio that it currently was, but they needed something to replace it. They had discussed infrastructure, and said he could bring infrastructure managers to make a presentation if the Board wished. He wanted this to be 2 1/2% to 5% of the total portfolio. He wanted PIMCO to be below the 10% temporary target, approximately 7 1/2%.

The Board requested Mr. Schmid bring in three infrastructure managers for the October meeting. Chair Dew said he wanted to hear what the managers had to say before he decided whether or not to move a percentage of the portfolio into infrastructure. Mr. Schmid said there was a wide range of infrastructure options available so it made sense to bring in managers from the global listed side and from the private side. He felt 2 1/2 % was reasonable target. The Board agreed Mr. Schmid should bring in infrastructure managers for their October meeting, then he would provide them with options he recommended.

Holland & Knight 415 Limitations Discussion: Robert Friedman

Mr. Friedman said his background was as a pension attorney with both governmental and private sector clients. His firm, Holland & Knight, was an international law firm with offices in and outside of Florida.

Mr. Friedman explained that IRS Section 415 imposed two limits. The first was an annual limit on the amount of the benefit that could be paid to a member from the regular pension plan, called a DB Plan limit, which in 2013 was $205,000. Section 415 also imposed an annual addition limit on the amount that could go into defined contribution plans, called a DC Plan Limit, which for 2013 was $51,000. Mr. Friedman explained that this applied to Police and Fire, as well as General Employees.

Regarding the DROP, Mr. Friedman reported the IRS had determined that a DROP account would be characterized depending on how the amounts in a member's account were invested. If the amounts in the DROP account were invested the same as the rest of the assets in the pension plan, the DROP account was part of a defined contribution plan. If the DROP account was going to be allocated earnings based upon a fixed or stated return, then it was considered part of the regular pension plan. This was important for determining how the Section 415 limit applied to the DROP account.

Under current tax law, Mr. Friedman said if the DROP account earnings were going to be determined based on a variable investment return, for Section 415 purposes, the DROP account was treated as a defined contribution plan. With the City's plan, he said "it's got kind of a mix between situations where there might be a fixed rate of return and a variable rate of return and in my view, that means the IRS is going to take the position that it's a variable rate of return and they're going to treat the DROP account for Section 415 purposes as if it's a defined contribution plan."

Mr. Friedman stated a member with a DROP account would have it treated as a separate, defined contribution plan for purposes of Section 415. The member had the amount of benefit that had accrued subject to the $205,000 limit, but the amount that went into the DROP account on an annual basis could not exceed the $51,000 limit. Mr. Friedman said his firm's position was that the amounts going into the DROP account were annual transfers from the regular pension plan and not an annual addition subject to the $51,000 limit.

Mr. Friedman said, “Up to this point, everything has been rolling along pretty well from a tax standpoint because the amounts being transferred are not violating the Section 415 limit.”

Mr. Friedman stated, “If the DROP account had a fixed rate of interest so that it was treated as part of the regular pension plan… then it's all part of one defined benefit plan, so the member’s benefit, for purposes of this part of the Section 415 limit is going to be the regular amount paid from the pension plan plus the amount that's accumulated in the DROP account converted into an annuity amount and then added to the amount that would normally come out of the regular pension plan.” This led to a potential situation for members with a high benefit amount accumulating in the DROP that would build up and push the member over the Section 415 limit.

Mr. Bayne noted that their plan became a variable amount the sixth year and asked, “If someone never hits that sixth year, and is within the term of a fixed period, does it go by the plan or does it go by the time period of whether they actually received a variable amount during that time period?” Mr. Friedman replied that there was no IRS guidance or regulations on how that would work.

Mr. Friedman stated, “Coming right out of the box, you have to make a determination about what kind of plan do you have: is it a DROP that's treated as part of your regular defined benefit plan or is it a DROP that's treated as a separate defined contribution plan for purposes of 415.” Mr. Friedman thought the IRS would take the position that it was a variable rate so it would be treated as a defined contribution plan.

Mr. Friedman provided an example of a member whose benefit had reached the $205,000 limit for 2013. “Now, that member enters the DROP, so now the $205,000 goes into the DROP and then what happens is… that amount that's accumulated in the DROP is then converted to an annuity amount and added together with the regular benefit. If together that annuity would exceed 205,000 a year, then it's in violation of 415 and under the plan document there would have to be a reduction in the benefit down to 205.”

Mr. Cypen asked if the City had an excess benefit plan. Ms. Wenguer replied that the City had set it up many years ago when Police and Fire pensions had exceeded the Section 415 limit when it was much lower but it had not been used in 15 years. She was unsure if the excess benefit plan still existed.

Mr. Naugle asked if overall this would limit liability and Mr. Cypen said this was where the excess benefit plan came in, “because the savings the City recognizes by not contributing here is paid over there out of the excess benefit plan, which is nonqualified.”

Mr. Friedman stated this was where the City would run into a problem. He said because of the way that the earnings work on the DROP account, their view was that the DROP account was considered a DC plan and subject to the Section 415 DC plan limit. They believed that the amounts coming over were transfers and not annual additions, and were therefore not subject to the limit. He reminded the Board that their plan was still pending review for the determination letter and explained that the IRS had started taking the position in their review for determination letters that the transfers to the DROP should be treated as annual additions. Mr. Friedman said if the IRS took that position with respect to the City’s plan, no more than $51,000 could be transferred to the DROP.

Mr. Cypen asked if the new provisions on the DROP were part of the request for qualifications or if they were adopted after they had put in the request. Mr. Friedman stated they were in the plan that was currently under review.

Mr. Hole said Mr. Friedman’s memo cited the regulations on which the IRS based their determination, but later in the memo he stated, “The participant has not elected a direct transfer to a DC contribution plan.” Mr. Hole asked if this would be a way around the limit. Mr. Friedman had sent comments to someone in the pension plan area at the IRS and she had responded that the IRS was “re-reviewing” their stance on this. Mr. Friedman believed the IRS had heard a lot of complaints from representatives of governmental pension plans that had DROP plans regarding how this would adversely affect them and that it should not be retroactive.

Mr. Friedman described how a member could run into a problem with the 415 limit. Mr. Rudominer remarked that the biggest problem facing them right now was that they had a variable rate. Mr. Friedman said the IRS continued to contend that transfers from the DROP were annual additions for purposes of the limit, at that point, the plan

would need to do something to accommodate this. A smaller amount would need to go into the DROP and the balance would accumulate in the excess benefit plan. Mr. Cypen said it could not go into the excess benefit plan because that was unfunded. Mr. Friedman stated when the DROP was treated as a defined contribution plan the amount coming out of the DROP was not subject to any limit.

Mr. Friedman said this did not only apply when a member wanted to take money out. The limit was tested on an annual basis, so if a member's accrued benefit exceeded $205,000, the plan was in violation of the 415 limit and in order to be in compliance the benefit would have to be reduced. The Board did not believe any members were in this situation now, but Ms. Wenguer said in the future, there would be members over the limit.

Mr. Friedman explained that the City's particular issue was that right now the IRS determined that the amount transferred to the DROP was treated as a defined contribution plan and was therefore subject to the annual addition limit under Section 450.

Mr. Naugle left the meeting at 2:27.

Mr. Cypen said the IRS had not made a pronouncement on this; they had just been responding to people asking for qualification. Mr. Friedman stated they did not believe that a letter from the IRS reviewer considering a determination letter application was really IRS authority. In order to get a client through the process to receive a determination letter, his firm had been amending the provisions in the pension ordinance relating to the DROP to say that to the extent that the DROP account has to be treated as a defined contribution plan, the drop would comply with Section 415.

Mr. Friedman said if the IRS determined that the transfer would be considered a contribution, they must consider what they would do. He felt that the IRS had probably received enough complaints about this that they would not make it retroactive.

Mr. Cypen said that adding the provisions in the pension ordinance to say that the DROP would comply, to the extent that it had to be treated as a defined contribution plan would not be a valid amendment to the plan; it was negotiable and subject to collective bargaining. Mr. Friedman stated this would not need to be in the plan document but the plan must operate in accordance with the limit. Mr. Bayne said they were in the process of a collective bargaining agreement that may be sealed in the next few months and the only other way to make a change would be to use a Memo of Understanding.

Mr. Hole asked about the tax implications and Mr. Friedman replied, "All of the amounts that are attributable to employer contributions are going to be subject to tax and any amounts that are… attributable to employee after-tax contributions are not subject to tax, it doesn't matter where it comes from."

Mr. Hole asked if they needed to check everyone in the DROP plan every year. Mr. Bayne said they also needed to determine what was going in every year. Mr. Friedman thought the new actuary would still treat this as a transfer that was not subject to the limit. He confirmed for Mr. Bayne that the variable rate was the problem.

Chair Dew asked about the determination letter and Mr. Cypen said the IRS was "not giving any rulings until they solve this issue." The letter had been submitted in 2009, and Ms. Wenguer pointed out that this was prior to the plan amendments making it a variable rate plan.

Mr. Friedman confirmed for Ms. Wenguer that if a member took money out of the DROP at age 50, he or she was not subject to the 10% penalty. Mr. Cypen stated it depended on when one separated service. One could not separate at 49 and then at 50 get the benefit without penalty. Mr. Friedman informed Chair Dew that if a member separated at 49, he or she must wait until 59 1/2 to take a lump sum or a partial lump sum without penalty.

COMMUNICATION DIRECTOR'S REPORT:
Mr. Nesbitt had nothing to report..

ADMINISTRATOR'S REPORT:
<u>COLA Review:</u> (under separate cover)
.Discussed under input from Retirees.

Milliman Software Changes, Revised Estimate
Ms. Wenguer stated she had spoken with Milliman after the Board's last meeting and they had lowered the price by $5,000 from $23,000 to $18,000 for the end-of-the-year change. The total proposal was now $29,000 and she recommended approval.

Motion made by Mr. Fortunato, seconded by Mr. Rudominer, to approve the Milliman proposal. In a voice vote, motion passed unanimously.

SB 50 Public Comment Policy
Chair Dew said they allowed public comment already but asked the Board where they would like to enter it on their agenda. Ms. Wenguer and Mr. Bayne suggested placing it after the Input from Active and Retired Police Officers and Firefighters. Mr. Cypen advised the Board to adopt the rules to comply with the October 1 deadline; the rules could be amended later if necessary. He recommended entering the item immediately after approval of the previous meeting's minutes.

Mr. Hole noted that for items other than agenda items there was a three minute speaking limit and asked if there was a limit on agenda items, or on the number of times a person could speak. Mr. Cypen stated a person could be limited regarding how many times he or she could speak on a particular item. The Chair had the prerogative at all times to regulate the meeting. He added that a person could speak before the item was discussed by the Board.

Mr. Bayne felt the policy was redundant and suggested removing repeated language but Mr. Cypen said this complied with the statute.

Motion made by Mr. Hole, seconded by Mr. Cameron, to adopt the public comment policy. In a voice vote, motion passed unanimously.

Chair Dew agreed that Public Comments should be placed immediately after approval of the minutes on their agendas.

2014 Proposed Meeting Dates
Ms. Wenguer asked Board members to review the meeting dates and report any conflicts. She was already aware of the conflict in October when their meeting overlapped with the FTPTA meeting.

Trustee Elections
Ms. Wenguer reported that elections were coming up and they would be posting announcements that two positions were open, one in the Police Department and one in the Fire Department, Chair Dew and Mr. Bayne's seats.

PENDING ITEMS:
New Business
Board Discussion
Chair Dew reported he had given a presentation at a homeowners association meeting recently in response to Commissioner Trantalis' letter. In keeping with transparency, he had also discussed the Board's website. Some people had noted that the website did not agree with what Chair Dew had stated at the meeting. Chair Dew said Mr. Nesbitt posted news clips to the site and readers were "misinterpreting those news clips as gospel towards our plan." He recommended the news clips be removed from the website.

Ms. Wenguer recalled that the previous month, it had been brought to her attention that the newsletters had not been sent out and she had been informed that the City's mail department had lost them. The City had reprinted them and mailed them out recently.

Ms. Cintron
Chair Dew said Ms. Cintron had documented some of her duties and Ms. Wenguer and Ms. DeZayas were reviewing them. He said Ms. Cintron would continue with some of her responsibilities from home while on leave.

Old Business
Employee Handbook

Chair Dew informed Mr. Hole that he had not had the opportunity to review the handbook yet because of the unexpected death of his brother-in-law. He hoped to get to this by next month.

Funding Policy

Mr. Hole reported the funding policy had been sent to the actuary recently, and he had mentioned to the actuary that per Chair Dew, there would be no charge for his review.

Northern Trust

Ms. Wenguer stated that Colleen form Northern Trusrt had a medical emergency but she was now back in the office after approximately 6 weeks and she hoped to attend one of the Board's upcoming meetings. Ms. Wenguer noted that Northern Trust had been very proactive with them.

GERS Service

Ms. Wenguer said members for who the Plan already had their contributions had been contacted and signed letters. The list of members who had their contributions refunded had been forwarded to the actuary to compute the amount that need to be repaid. They had also sent a list to GERS, and in the absence of a response from GERS, Ms. Wenguer would assume that the funds were there and they needed to figure out how much these members were owed. Mr. Hole asked if there would be an attached cost for the actuary. Ms. Wenguer did not know and Chair Dew asked her to phone the actuary to get an estimate.

Mr. Bayne said he had never received an answer to his question at a previous meeting regarding a member transferring benefits from a GERS plan. Ms. Wenguer recalled the Board had discussed this but there had never been a motion. Mr. Cypen stated a member might not want to stay with the GERS plan because of the age of retirement. Ms. Wenguer said it would be much better to come into the Police and Firefighters plan. Mr. Bayne thought that people who had been vested were excluded.

Mr. Bayne pointed out that someone could potentially exceed a 100% benefit. Mr. Cypen recalled that the Board had not been worried about the two coordinations being over 100%, they had been worried that if it was transferred it would be over 100%. Mr. Bayne explained that if a member had 10 years in GERS, there would be 25% he/she could transfer over. If he/she had the maximum amount of time in the Police and Firefighters plan, that was 81%. The two together would exceed 100%. Mr. Cypen said state law prevented exceeding 100%.

Ms. Wenguer informed the Board that there was one person who had 12 years of service in General Employees and when she transferred in 2004 she had not taken the money. In 2008 she had changed her mind and said she wanted her 12 years of service and received a refund of her contribution. Ms. Wenguer said this person did not think she could get time with the Police and Firefighters plan.

Ms. Wenguer said the Board needed to decide on this now to prepare for the possibility that someone who had spent 10 years in General Employees became a Police or Fire employee. Chair Dew said the rule should be when an employee was vested in the GERS plan, they were no longer eligible. In the past, people had been misled and were provided confusing information. Chair Dew said no one had understood it and they had received three different explanations for it since 2004.

Mr. Rudominer thought that going forward, anyone who wanted to switch was informed this was not an option. Ms. Wenguer pointed out that they had not made a determination. Mr. Hole asked if the City's ordinance did not prevail and dictate and Ms. Wenguer stated it did not because it was not in the Police and Firefighters ordinance. Mr. Cypen remarked this was a moving target.

Ms. Wenguer reminded the Board that GERS had been closed since 2007 so the only people they needed to worry about was anyone hired prior to 2007. Mr. Cypen did not feel they needed to do anything.

Ms. Cypen confirmed for Mr. Bayne that whether one was vested or not, he or she would be able to have creditable time from GERS transferred over.

Schedule A

No discussion.

FOR YOUR INFORMATION:
Klausner, Kaufman: Letter dated August 29, 2013
ConvergEx: Recapture Summary/July, 2013
Knight: Recapture Summary/July, 2013

There being no further business to come before the Board at this time, the meeting was adjourned at 3:20 p.m.

[Minutes prepared by J. Opperlee, Prototype, Inc.]

Close Window