

**POMPANO BEACH POLICE & FIREFIGHTERS' RETIREMENT SYSTEM**

**2335 EAST ATLANTIC BLVD.  
SUITE 400  
POMPANO BEACH, FLORIDA**

**BOARD OF TRUSTEES MINUTES  
REGULAR MEETING  
NOVEMBER 14, 2011**

The Board of Trustees convened at the Pompano Beach Police and Firefighters' Pension Office, Pompano Beach, Florida. The Chairman called the meeting to order at 3:03 PM.

**PRESENT:** Chairman Paul D. O'Connell  
Vice Chairman Richard E. Avallone  
Trustee Sharra Aaronian  
Trustee John P. DeVoe  
Trustee David Hall  
Trustee Peter McGinnis

**ABSENT:** Trustee Daniel M. Christophers  
Trustee Patrick S. Fletcher  
Trustee Richard H. Samolewicz

**ALSO PRESENT:** Robert A. Sugarman, Esq. Board Attorney  
Pedro Herrera, Esq. Sugarman & Susskind, P.A.  
Glenda Rowley, Deputy Administrator  
Brian Hall, Assistant to Deputy Administrator  
Retired Police Chief Gary Morton

**VISITORS:** Maya Saxena, Saxena White P.A.  
Charles Mulfinger, Graystone Consulting  
Robert Drago, Retired Member

**APPROVAL OF AGENDA**

**MOTION:** To approve the agenda of November 14, 2011. PASSED 6-0.

O'Connell  
Avallone  
Aaronian  
DeVoe  
Hall  
McGinnis

M O T I O N	S E C O N D	V O T E D Y E S	V O T E D N O
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**APPROVAL OF MINUTES**

**MOTION:** To waive the reading of the October 17, 2011 Minutes and to approve same as submitted. PASSED 6-0.

O'Connell  
Avallone  
Aaronian  
DeVoe  
Hall  
McGinnis

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X		X	
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	X	X	
		X	

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<u>RATIFICATION AND APPROVAL OF WARRANT NOS. 4145 – 4151</u>						
<p><b>MOTION:</b> To ratify and approve payment of bills set forth on Warrants as follows: No. 4145, \$52,476.82; No. 4146, \$1,680.00; No. 4147, \$73,337.45; No. 4148, \$323.75; No. 4149, \$17,566.39; No. 4150, \$3152.00; and No. 4151, \$10,000.00. PASSED 6-0.</p>	<p>O'Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>	
<u>APPROVAL OF RETIREMENT APPLICATIONS</u>						
<p><b>MOTION:</b> To approve Normal Retirement applications from Deputy Sheriffs Thomas Harley effective 12/6/2011 and Andrew Weiman effective 11/20/2011. PASSED 6-0.</p>	<p>O'Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>	
<u>APPROVAL OF DROP LOAN APPLICATION</u>						
<p>Deputy Sheriff James Pendergast filed an application for a \$10,000 DROP loan which will be paid back over a 60 month period. This is his third DROP loan, which will bring him up to the maximum.</p>						
<p><b>MOTION:</b> To approve the DROP loan application from James Pendergast. PASSED 6-0</p>	<p>O'Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>	
<u>SUGARMAN &amp; SUSSKIND</u>						
<p>Mr. Sugarman introduced Maya Saxena, a partner of Saxena White P.A. Chairman O'Connell tentatively approved engaging Saxena White to commence a derivative action relating to HealthSpring, Inc. Ms. Saxena was present to explain the basis for their recommendation to pursue this case. If the Board agrees, it will be asked to ratify Chair O'Connell's actions.</p>						
<p>Cigna Corporation, a major player in the health care field, made an offer to purchase HealthSpring at a price that Saxena White feels is not adequate for its public shareholders. HealthSpring's CEO has about 120 million dollars worth of stock and, as a result of this transaction, will earn an immediate cash payment of 12 million dollars, leading many to believe he has a conflict of interest. Cigna's offer price was about a 37% premium per share but analysts claimed that shareholders should expect a premium of around 50% for a merger of this type.</p>						

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<p>Their main purpose in bringing this action is to get a better offer price for the HealthSpring stock. The complaint has been filed in Tennessee and Saxena White is working with Robbins Geller, another securities litigation firm, to stop the merger so the price can be evaluated and raised to an adequate level. Unlike a securities fraud case, a derivative action case is usually settled fairly quickly. To that end, they have filed a motion seeking expedited discovery for documents that will help to assess if the merger price is fair. This case is expected to be over in 2-3 months and the Fund is required to hold at least 10 shares of the HealthSpring stock until the case is settled. The Fund's current holding is valued at about \$70,000.</p> <p>Saxena White's fees will be assessed by the Court based on either time spent on the litigation or as a percent of an increase in the offer they are able to bring about. Mr. Sugarman noted that Sugarman &amp; Susskind will disclose any fees that they receive as a result of their participation.</p> <p>Trustee Aaronian asked what the Fund stood to gain financially by pursuing this case. Ms. Saxena stated that nothing could be guaranteed but she said similar cases have attained increases of 10% to 30%. Any premium above the initial offer will be considered a win.</p> <p><b>MOTION:</b> To ratify the Chairman's action to engage Saxena White to commence litigation regarding HealthSpring Inc. based on Saxena White's recommendation, to ensure that at least 10 shares of the stocks will be held until the end of the litigation and to authorize the Chairman to make decisions in the interim between board meetings. PASSED 6-0.</p> <p>Stuart Grant and Megan McIntyre, with securities litigation firm Grant &amp; Eisenhofer, joined the meeting via conference call to explain the El Paso/Kinder Morgan merger litigation case. Based on their recommendation, Chairman O'Connell allowed this case to proceed, subject to ratification by the Board. Mr. Sugarman disclosed that Sugarman &amp; Susskind will be working this case on a contingency basis and will disclose all fees they receive. As he has done in the past, Mr. Sugarman disclosed that his son works for Grant &amp; Eisenhofer as an associate attorney in their Wilmington, Delaware office.</p> <p>Ms. McIntyre reported that this Fund has shares in El Paso Corporation, an energy company, which Kinder Morgan is proposing to acquire. Before this proposal there were plans for a spinoff of the company's exploration and production business to the company's shareholders which was lauded by Wall Street analysts as a way to unlock substantial value for El Paso shareholders.</p> <p>The spinoff plan was abandoned when El Paso's board decided to focus on Kinder Morgan's acquisition proposal without conducting any auction process or other pre-signing market checks. It was discovered that El Paso's financial advisor, Goldman Sachs, had a 20% equity ownership in Kinder Morgan. This created a conflict of interest as Goldman Sachs' own economic interests favored terms that did not maximize value for El Paso shareholders. Additionally, two of Goldman Sachs' managing directors</p>	<p>O'Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>

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<p>serve on Kinder Morgan's board. At least 5 other companies have filed actions in Delaware courts on the grounds that there is a breach of fiduciary duty by El Paso directors, who failed to take reasonable steps to maximize shareholder value and allowed the sale process to be tainted by a conflicted advisor.</p> <p>The goal is to get the transaction enjoined from going forward until a determination can be made as to whether this is the best deal. Because the process was unfair, it is likely the offer price is unfair. Ultimately, they want to get more money for the shareholders and hopefully change the way Wall Street does business as well.</p> <p>Ms. McIntyre said they are trying to expedite the case due to a shareholder vote on the Kinder Morgan offer expected in January 2012.</p> <p>Trustee Aaronian inquired whether personal ownership of any of these companies was a conflict of interest. Mr. Sugarman stated that although it was good to disclose ownership, it was not necessary. In accordance with Florida's ethics laws, there would only be a conflict if a trustee stood to receive a special benefit. From a federal litigation perspective, Mr. Grant agreed.</p> <p><b>MOTION:</b> To ratify the Chairman's action to engage Grant &amp; Eisenhofer to commence litigation regarding the El Paso/Kinder Morgan merger based on the recommendation of Grant &amp; Eisenhofer, to ensure that at least 10 shares of the company stock are held until the action is settled and to authorize to the Chairman to make decisions in the interim between board meetings. PASSED 6-0.</p> <p>There was a question about the necessity of having these reports. Mr. Sugarman pointed out that the Board does need to take an active and informed role in these cases. They initially review requests from the litigation firms and only refer them on to the Chairman/Board if they have merit. Trustee DeVoe recommended that the results and/or benefits of any litigation settlements be disclosed to the members so they understand the Board's involvement in these cases. Mr. Sugarman will request that the law firms write a PR paragraph to be included in our newsletter.</p> <p>Blair Nicholas and Amy Miller with the firm of Bernstein Litowitz Berger &amp; Grossman (BLBG) joined the meeting via conference call to report on developments in the Dollar Thrifty case. Mr. Sugarman disclosed to Mr. Nicholas that this was a public meeting with members of the public present. Mr. Nicholas acknowledged the disclosure and stated that they would give a procedural update but would not discuss future strategy.</p> <p>Ms. Miller reported that this case was filed in the spring of 2010. The Dollar Thrifty board entered into an agreement to be acquired by Hertz even though Avis was also interested and had offered a higher price. BLBG filed an expedited request for a preliminary injunction, which was denied by the court. Subsequently, the Dollar Thrifty shareholders voted against the deal. Hertz then backed away from the deal but Avis pursued its offer and sought regulatory approval for the acquisition of Dollar Thrifty.</p>	<p>O'Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>

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<p>Hertz later came back into the picture with an exchange offer involving cash and stock equating to about \$72/share. The Dollar Thrifty Board agreed to work with both Hertz and Avis to gain regulatory permission from the FTC to be acquired. However, the Dollar Thrifty board also adopted a Shareholders Rights Plan, known as a “poison pill”, making it very expensive and difficult for other bidders to come forward.</p> <p>While Hertz and Avis were seeking regulatory permission from the FTC, Dollar Thrifty set 10/10/2011 as the deadline for submitting best and final offers. However, Avis then announced that it was withdrawing from the bidding process. BLBG demanded that Dollar Thrifty accept the Hertz offer, which was a 33% increase over the original offer, and remove the poison pill. On 10/11/11 Dollar Thrifty announced they were taking themselves off the market. BLBG then sought to file a second supplement to the consolidated class action complaint with new charges for breach of fiduciary duty because 1) Dollar Thrifty failed to disclose information related to the termination of the sales process and 2) they continued to maintain the poison pill. Related discovery requests were made and the court requested that all parties file an update on the case by 11/1/2011.</p> <p>On 11/27/2011 Hertz pulled its exchange offer but said it was still interested in pursuing Dollar Thrifty and was continuing the regulatory approval process. The claim against Hertz is being dismissed without prejudice pending that approval, at which time the case will continue. In the meantime, the parties will provide the court with updates every six weeks. There are currently no claims to pursue but any offers from Hertz will be analyzed. In the meantime, the Board will continue to have the manager hold its shares.</p> <p>The Board recently decided to stop treating ex-spouses as direct payees and effective January 1, 2012 will treat divorce payments as alimony and will deduct those payments from the members’ benefits. This will result in full taxation to the members. As a result, Mr. Robert Drago submitted a written request to stop the deductions from happening, preferring to make the payment himself. Both parties of that divorce deny that the payment is alimony and do not want it treated as such. However, Mr. Drago signed an irrevocable authorization and his ex-spouse is opposed to having him make the payment. Mr. Sugarman is concerned about litigation if the payment method is changed and suggested filing an interpleader with the court until the matter can be worked out between the parties. In the meantime, the money would be deposited with the court. After further discussion about the Board’s obligations and the fact that alimony payments are allowable pension deductions but marital distributions of assets are not, Mr. Drago was told to submit evidence to Sugarman &amp; Susskind demonstrating that the payment to his ex-spouse has been set up to be paid electronically each month. This issue will then be considered again at the December Board meeting.</p>						

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<p>Mr. Herrera contacted Institutional Shareholder Services (ISS), a third-party proxy voting administrator, regarding their proxy voting services. They estimated the charge to develop a customized voting policy would be in the range of \$500-\$750. This is a cost that would be paid by the Fund. ISS would also monitor the voting by the managers to ensure compliance with the policy, the cost of which would be passed on to the managers.</p> <p><b>MOTION:</b> To approve the hiring of ISS as the proxy voting administrator. PASSED 5-0. Trustee McGinnis was temporarily out of the room.</p> <p>There was no news on the Stop/Start and Pop-Up ordinances. Everyone is still waiting for a response from the Division of Retirement on the latest amendment.</p> <p>Sugarman &amp; Susskind's memorandum titled "Mandatory Local Law Pension Plan Revisions" was reviewed. Senate Bill 1128 made several changes affecting Florida's local government defined benefit retirement plans. Trustees were advised to read the memo and call Mr. Herrera or Mr. Sugarman if they have questions. These changes were incorporated into the laws of Florida as Chapter 2011-216.</p> <p>Mr. Sugarman reported that the Broward County Commission amended the county code on ethics, which also applies to all municipalities in the county. He indicated that it does not apply to public pension trustees unless they are also a "public official" with decision making authority. Trustee McGinnis's duties and responsibilities as Fire Marshal will be reviewed.</p> <p>Autumn Reyka, a beneficiary who is a student under the age of 22, has requested a determination of her continuing eligibility for benefits if she attends the Law Enforcement Academy. Mr. Sugarman said that a certificate or document from the registrar of Palm Beach State College stating that she is a full time student would suffice. Once this document is in hand, she will continue to receive the survivor benefit.</p> <p>Mr. Herrera gave an update on the opinion by the Florida Commission on Ethics regarding trustee financial disclosure requirements. He contacted them regarding questions raised at the last meeting and they agreed to hold a telephone conference with the Board. Chairman O'Connell requested that this be put on the January agenda.</p> <p><u>GRAYSTONE CONSULTING – CHARLES H. MULFINGER</u></p> <p>Mr. Charles Mulfinger, on behalf of Graystone Consulting, presented the performance report for the quarter ending September 30, 2011, at which time the fund was valued at \$173,310,658. Returns for the quarter, 1-year and 3-year periods were -9.51%, 1.68% and 4.58%, respectively, with a mixed report on whether the benchmarks were being met for different time periods. The "Summary of Relevant Facts" and "Breakdown of Returns" are attached as backup. There was no need to rebalance the portfolio.</p>	<p>O'Connell Avallone Aaronian DeVoe Hall</p>	<p>X</p>	<p>X</p>	<p>X X X X X</p>	<p>X X X X X</p>

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<p>The past quarter was down significantly and ended the fiscal year on a sour note. Since then it has improved significantly and Mr. Mulfinger estimated the latest rally made up between 50%-75% of the loss incurred from the last quarter. Economic indicators showed weakness and interest rates, which were anticipated to rise, did the opposite. Housing numbers still showed weakness, the unemployment rate was still high at 9% and the political differences were not helping consumer confidence. The GDP was reported at 2.5% which has helped the market rally. Corporate earnings continue to surprise on the upside, with over 86% of the companies beating their estimates.</p> <p>Internationally and globally Greece is still a big issue, with Italy in the news now. There is not enough money in Europe to bail out Italy and there is hope that austerity measures will be taken, budgets cut back and rates lowered. The fear in the third quarter was that the economy was going back into a recession. The Energy, Industrials and Material sectors were all down by more than 20%. Utilities was the only positive sector with a return of 1.6%. It was the same story in the international markets as fear drove money into government bonds due to a flight to safety. The decline in interest rates helped bonds perform very well.</p> <p>Mr. Mulfinger's summarization was that managers with economically held holdings did not do as well due to adverse news on the economy. The managers who had economically defensive holdings performed better. Since the quarter ended, the opposite has happened as the market has rallied.</p> <p>Mr. Mulfinger suggested that RBC, Lord Abbett and Invesco should be questioned about their performance at the next Symposium meeting.</p> <p>The Invesco REIT funds have been moved to Invesco's Core Real Estate Fund. Mr. Mulfinger reviewed the office building's performance and suggested that the 90-day T-Bill rate would be a better benchmark than the Aggregate Bond Index. Although far from perfect, this would give the total policy index a more accurate outlook than what is being shown now.</p> <p>All the hedge funds performed better than the benchmarks. Neuberger Berman's performance is a time-weighted rate of return but to get a better picture one should look at the dollar-weighted rate of return. The dollar-weighted return for NB was 19.29% since inception. The risk return analysis for the total fund shows slightly higher returns and slightly lower risks.</p> <p>Morgan Stanley/Graystone is still very concerned about what is going on in Europe and especially Italy. The details could be very complicated and they are still worried because Italy is too big to just bail out and Spain has the same issues.</p>						

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<p>Mr. Mulfinger shared an education piece regarding the landmark 1986 Brinson Study on asset allocation. They had concluded that more than 90% of return variability comes from asset allocation. Review of that work by Hensel, Ibbotson and Kaplan showed that, while the data was correct, interpretation of the study was faulty. They concluded that just being in the market was found to be 75% responsible for performance while asset allocation accounted for another 20% (other variables accounted for the remaining 5%).</p>						
<p><u>DROP MUTUAL FUND ANALYSIS</u></p>						
<p>Mr. Mulfinger presented a summary page for discussion along with a detailed report on the third quarter performance of the DROP mutual funds. Highlights of the report included the following:</p>						
<ul style="list-style-type: none"> <li>❖ DROP assets were valued at \$14,134,497 as of September 30, 2011, a decrease of \$1,233,196 from the previous quarter.</li> <li>❖ There are currently 22 available investment options including the pension fund option.</li> <li>❖ Approximately 63.45% of all DROP money is in the “Fund Rate” option.</li> <li>❖ Approximately 15.93% of the total funds are invested in the Money Market Fund.</li> <li>❖ The PIMCO Real Return bond fund has been on the watch list for the last three quarters. There is approximately \$13,000 invested but it was not recommended to replace the fund at this point. The Artisan International Investment is also being reviewed for this quarter and if the same poor performance repeats for a consecutive quarter they will be replaced. Only \$5,000 has been invested thus far.</li> </ul>						
<p><b>MOTION:</b> To approve the September 30, 2011 Performance Evaluation Reports as submitted by Graystone Consulting. PASSED 6-0.</p>	<p>O’Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>			<p>X X X X X X</p>	
<p><b>MOTION:</b> To set the net investment rate of return for the quarter ended 09/30/11 at -9.51% for purposes of the Fund Rate DROP earnings in accordance with Mr. Mulfinger’s 11/07/11 letter of certification. PASSED 6-0.</p>	<p>O’Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>		<p>X</p>	<p>X X X X X X</p>	
<p><u>COMMITTEE REPORTS AND REVIEWS</u></p>						
<p><u>Building Committee:</u> There have been delays with the elevator project and completion is not expected until the end of the year or later. Chairman O’Connell will call Mr. Ross of Trade Street Capital to see if the project can be expedited. The parking lot project is projected to start within 30 days.</p>						

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<p><u>Investment Committee:</u> Trustee Avallone passed around an annual report to participants of the Firemen’s Annuity &amp; Benefit Fund of Chicago. He received it from a friend and thought it was of interest.</p> <p><u>DEPUTY ADMINISTRATOR’S REPORT</u></p> <p>Ms. Rowley reported that the travel policy has a \$60 per diem for meals but allows for an increase at higher-cost meeting locations. Trustee Aaronian recently came back from New Orleans, which has a GSA rate of \$66 per day. Mrs. Rowley reported that she allowed the higher rate for that trip.</p> <p>The Educational Symposium dates of April 19-21 and April 26-28 were considered. Chairman O’Connell said the controlling issue was to give Mr. Mulfinger time to get the most accurate available data for preparation of the March 31 quarterly report. It was agreed that the date of April 26-28 would be most suitable for this purpose.</p> <p><u>OLD BUSINESS</u></p> <p>Chairman O’Connell followed up with Jeff Poole of the Broward County PBA regarding the increase of police overtime from 25 to 42 hours for pension purposes. He has not received any response from BSO so it was agreed that Mr. Sugarman would inform the Division of Retirement that BSO and the City refuse to address this issue.</p> <p>The State Attorney’s office is still working on the public records request relating to retiree Page.</p> <p><u>MISCELLANEOUS</u></p> <p>Ms. Rowley announced that the property tax bills have been received. They will be appealed once the appeal for last year’s taxes is concluded. The hearing for that is scheduled for December 9. In the meantime, Trade Street Capital needs authorization from the Board to pay the tax bill in the amount of \$83,180.10.</p> <p><b>MOTION:</b> To authorize Trade Street Capital to pay the 2011 property taxes on the Bank of America building in the total amount of \$83,180.10. PASSED 6-0.</p> <p>Chairman O’Connell discussed “Your Pension Matters” newsletter. The Board was advised to review the content and make suggestions on any changes that need to be made. Information from Mr. Mulfinger’s report will be added. Trustee DeVoe reiterated his request that litigation results and comments be included in the newsletter in the future.</p> <p>Mr. Sugarman reported on the IFEBP conference, which was also attended by Trustee Aaronian.</p>	<p>O’Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>	

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<p>The holiday party will be co-sponsored by Trade Street Capital and Sugarman &amp; Susskind. Mr. Sugarman will file any necessary reports.</p> <p><u>ADJOURNMENT</u></p> <p><b>MOTION:</b> To adjourn the meeting at 5:51 p.m. PASSED 6-0.</p> <p>Respectfully submitted by:</p> <hr/> <p>Glenda R. Rowley, CEBS Deputy Administrator</p> <p><u>Distribution:</u> Board of Trustees Robert A. Sugarman, Esq. J. Stephen Palmquist City Manager Mayor and City Commission Marcum Webmaster</p>	<p>O'Connell Avallone Aaronian DeVoe Hall McGinnis</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>	