

POMPANO BEACH POLICE & FIREFIGHTERS' RETIREMENT SYSTEM

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

**BOARD OF TRUSTEES MINUTES
REGULAR MEETING
OCTOBER 19, 2009**

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 3:05 p.m.

PRESENT: Chairman Paul D. O'Connell
Vice Chairman Richard E. Avallone
Trustee Sharra Aaronian
Trustee Daniel M. Christophers
Trustee John P. DeVoe
Trustee Patrick S. Fletcher
Trustee Ernest J. Lee, Jr.
Trustee Peter McGinnis
Trustee Richard H. Samolewicz

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

APPROVAL OF AGENDA

MOTION: To approve the Meeting Agenda of October 19, 2009.

	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
O'Connell			X	
Avallone			X	
Aaronian			X	
Christophers			X	
DeVoe			X	
Fletcher			X	
Lee	X		X	
McGinnis			X	
Samolewicz		X	X	

APPROVAL OF MINUTES

An error was noted on page 14 of the Minutes of August 17, 2009. The vote on the motion to access the member the fee charged by the actuary to recalculate the buyback should show a "no" vote for Christophers and a "yes" vote for Avallone.

MOTION: To waive reading of Minutes of August 17, 2009 and to approve same as corrected.

O'Connell			X	
Avallone	X		X	
Aaronian			X	
Christophers			X	
DeVoe			X	
Fletcher			X	
Lee		X	X	
McGinnis			X	
Samolewicz			X	

Board of Trustees Minutes Page Two	October 19, 2009	TRUSTEES	M	S	Y	N
<p>MOTION: To waive reading of Minutes of September 21, 2009 and to approve same as submitted.</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>			<p>X X X X X X X X X</p>	
<p><u>APPROVAL OF WARRANT NOS. 2971 THROUGH 2983</u></p>						
<p>MOTION: To approve payment of bills set forth on Warrant Nos. 2971 through 2983 as follows: No. 2971 \$9,563.82, No. 2972 \$7,919.22, No. 2973 \$9,801.56, No. 2974 \$981.83, No. 2975 \$333.48, No. 2996 \$511.75, No. 2997 \$536.80, No. 2978 \$418.82, No. 2979 \$2,621.49, No. 2980 \$76,329.64, No. 2981 \$41,975.37, No. 2982 \$57,671.17 and No. 2983 \$7,099.11. (Detailed listing of Warrants is attached to Minutes)</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>	<p>X</p>		<p>X X X X X X X X X</p>	
<p><u>APPLICATION FOR RETIREMENT BENEFITS</u></p>						
<p>MOTION: To approve Application for Normal Retirement and DROP Entry, effective 11/1/09, submitted by Fire Lieutenant Mark Callahan.</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>		<p>X</p>	<p>X X X X X X X X X</p>	
<p>MOTION: To approve Application for Normal Retirement, effective 11/10/09, submitted by Police Sergeant Darryl Stallings.</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>		<p>X</p>	<p>X X X X X X X X X</p>	
<p><u>RATIFICATION OF OFFER OF EMPLOYMENT AND COMPENSATION PACKAGE TO GLENDA ROWLEY FOR THE DEPUTY ADMINISTRATOR POSITION, EFFECTIVE 1/4/2010</u></p>						
<p>Chairman O'Connell introduced Ms. Glenda Rowley, who will assume the position of Deputy Administrator when Ms. Dalton retires on 1/31/10.</p>						

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<p>Ms. Rowley's date of hire will be 1/4/10. He complimented Trustee Samolewicz for all the work he did in the negotiation offer of employment to secure Ms. Rowley as the successor Deputy Administrator. A copy of the offer of employment and compensation package dated 10/1/09 was submitted to the Board for its review and ratification. He said Ms. Rowley has years of experience and a wealth of knowledge as a pension administrator with the City of Boca Raton Police and Firefighters' Retirement System and General Employees' Pension Plan and currently as a contract employee with the City of Hollywood General Employees' Retirement System. Ms. Rowley's date of hire will be 1/4/10. During the one month overlap in January, Ms. Dalton will work with Ms. Rowley to acclimate her to the position, which will allow for a seamless transition. There were no questions or concerns regarding the employment contract.</p>						
<p>MOTION: To ratify the offer of employment and compensation package for Glenda Rowley for the position of Deputy Administrator, effective 1/4/10.</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>		<p>X X X X X X X X X</p>		
<p>Chairman O'Connell said he would like the Board to consider hosting a retirement dinner to honor Ms. Dalton. He requested permission to send a letter to the investment managers and professionals inviting them and asking for donations to help make the event possible. Also, he asked for permission to look into Galuppi's Restaurant at the Pompano Beach Municipal Golf Course as the venue. Once the plans are finalized, the event would be advertised to inform all active and retired members, both unions and city employees. The dates being considered were January 29 or January 30.</p>						
<p>MOTION: To allow the Chairman to seek a venue and plan a farewell retirement dinner for Ms. Dalton.</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X X X</p>		
<p><u>ROBERT A. SUGARMAN, ESQ.</u></p>		<p>X</p>		<p>X X X X X X X X X</p>		
<p>Mr. Sugarman welcomed Ms. Rowley and said he was looking forward to working with her again.</p>						
<p>In regard to the Samuel Sirico forfeiture case, Mr. Sugarman reviewed the Initial Order on forfeiture proceedings. He said the facts of the case would be developed in a formal hearing in the future, which will be held in a trial-like manner before the Board of Trustees. He requested that the Board not</p>						

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<p>discuss the case until then. There will be competing lawyers, discovery, motions and so forth. Mr. Sugarman recommended that a motion be made to approve the pre-hearing Initial Order that sets the deadlines for the lawyers for conducting discovery and filing motions. He anticipated the hearing will take place around March, 2010. The Initial Order will be sent to Robert Klausner, Special Counsel for the Retirement System, and Ledford Parnell, Counsel for Samuel Sirico.</p> <p>MOTION: To approve the Initial Order on Forfeiture Proceedings and to authorize Chairman to sign it and to direct the Deputy Administrator to send the signed Order to Special Counsel and Mr. Sirico's attorney.</p>						
<p>Mr. Sugarman reiterated that in the meantime he preferred that there be no discussion with anyone regarding this matter.</p> <p>Mr. Sugarman gave an IRS update in regard to refunds of contributions and DROP lump sum distributions. Recipients have the opportunity to rollover eligible payments to defer paying federal income tax on the payments or to receive the payments and have the required 20% income tax withholding. An explanation of the available options must be provided to the recipients in the form of a written notice. It is called the Safe Harbor Rollover Notice. He said the IRS recently issued a new Safe Harbor Notice (Notice 2009-68).</p>						
<p>MOTION: To adopt the new IRS Safe Harbor Rollover Notice and to request the Deputy Administrator use it hereafter.</p>						
<p>Mr. Sugarman informed the Board that next month his firm would be asking for a big increase in their fees for legal services. He said their fees have been in effect since 2002. They were guaranteed to be kept in effect until 2008 because through the Board's assistance the firm was able to supplement the fees with money earned through securities litigation cases. No more of those monies have come in lately. He reported for the last few years they have been working for the Plan for about \$65/hour which he felt was very low. On average, they work about 25-30 hours a month for the Plan. He gave the Board forewarning that the fee increase would be a big number because the fees have been low for a long time.</p>						

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<p>Mr. Sugarman reported the DROP Rules and Procedures will be codified and incorporated in the City of Pompano Code of Ordinances. The DROP loan program that Mr. Herrera has been working on should be ready to go. Chairman O'Connell expressed concern because codification of the DROP Rules will make changes to the DROP Rules and the Board's administration of the DROP particularly burdensome. Changes such as the DROP loan program will have to go before the City Commission and a Waiver and Consent of Collective Bargaining will have to be signed off by the Sheriff and the PBA. He was concerned with the problems the Retirement System is currently dealing with in just getting a response from BSO on the proposed overtime ordinance for police members. Trustee DeVoe stated that the firefighters' union tried to have the DROP Rules included in the contract and this was rejected by the City. The next best option was to place the DROP Rules in the Code of Ordinances. Mr. Sugarman said the City was insistent on having the DROP Rules codified. He felt the impact on the System would be minor with the exception that it would be more work to get anything changed. Any changes still remain a mandatory subject of collective bargaining and the firefighters' collective bargaining agreement must be ratified by the City Commission and the union members. Then, the ordinance amendment process must take place. The net result is more steps are involved before it comes back to the Pension Board to implement the changes to the DROP Rules.</p> <p>Mr. Sugarman said they have reviewed the proposed ordinance and it seems fine. It is a result of the bargaining process. Ms. Dalton inquired how this would affect the police members. Mr. Sugarman responded that police officers are governed by the last DROP Rules that were agreed to until BSO and/or the PBA bargain changes to the DROP Rules. In his opinion, the DROP loan program was consistent with those Rules and Procedures.</p> <p>Mr. Herrera reviewed the proposed DROP Rules and Procedures which will be incorporated in the City's Code of Ordinances. He was uncertain of the time frame as far as this being placed on the City Commission Agenda because the firefighters' contract has not yet been placed on the Agenda. Secondly, he reported on the side letter he was negotiating with Goldman Sachs in regard to their proposed alternative investment secondary offering. He said the response from Goldman Sachs was one-sided and unacceptable. They will set up another meeting with certain ground rules for private placements. Thirdly, he said the DROP consulting contract for Graystone Consulting was reviewed. They sent back some revisions and are waiting for the revised contract. Chairman O'Connell said Mr. Mulfinger is working on a package that will expand the investment options available to participants in the employee-directed DROP program. Mr. Herrera said Mr. Mulfinger's firm will be doing the due diligence on the investment options and accepting fiduciary responsibility, which is a great complement.</p> <p>Mr. Herrera reported a notice of production of documents pertaining to the Johns v. Johns case was forwarded to them by the pension office. The divorce kit packet was sent to both parties, which should address any legal concerns they may have.</p>						

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<p>Mr. Herrera said they are in the process of writing a letter to BSO in an effort to expedite receipt of the signed Waiver and Consent form that was submitted to BSO over 5 months ago in order to move forward with the proposed overtime ordinance. Jeff Kessler, BSO Senior Legal Counsel, said in a 10/9/09 email to Chairman O'Connell that they wanted a guarantee there would be no increase in cost to BSO in the future. BSO's response was to include language in the Waiver and Consent form that they would not be responsible for any increase in pension costs and any costs would be bourn by the City of Pompano Beach. Mr. Sugarman said the root of this disagreement stems from the disagreement with the League of Cities and Ms. Patricia Shoemaker of the Division of Retirement. Chapter 99-1 provided that premium tax revenue issued over and above what was received in 1999 must be used for additional benefits. The actuary does an actuarial study to determine the cost of any benefit enhancement. There may be unforeseen circumstances that cause the cost to fluctuate. The League of Cities position is the City should be able to pull money out if the cost goes up. Ms. Shoemaker said the cost is what it is when it is calculated and the City must bear the risk of the cost fluctuating. Mr. Sugarman said the Waiver and Consent is a labor law issue not a pension issue. It is between the City and BSO.</p>						
<p><u>DEPUTY ADMINISTRATOR'S REPORT</u></p>						
<p>Ms. Dalton reported Memo #2010-01 dated 10/13/09 was forwarded to the Interim City Manager to inform the City that the Board revised and adopted the DROP Rules and Procedures, effective 9/21/09, to incorporate a loan program for DROP participants. Copies were also forwarded to BSO and the unions. Copies of the revised DROP Rules and Procedures as well as a marked-up version were included in the Trustees' backup. Ms. Dalton also reviewed a communication from Invesco Core Real Estate Fund advising the dividend would be suspended to build additional cash reserves for the Fund until possibly the latter part of 2010. She reported that Mr. Jameson of Tegrity Administrators furnished copies of the system generated DROP loan documents. They will be forwarded to legal counsel for review.</p>						
<p>Ms Dalton said Lon Britton of Munder Capital would like to make a presentation on a mortgage opportunities strategy. Mr. Mulfinger has reviewed this investment and can bring this to the Board at the 11/16/09 quarterly meeting. Mr. Sugarman noted that the Board does not receive direct solicitations. Everything goes through Mr. Mulfinger.</p>						
<p>MOTION: To accept the invitation from Mr. Mulfinger to listen to the presentation on Munder's mortgage opportunities strategy at the 11/16/09 quarterly Board meeting.</p>	<p>O'Connell Avallone Aaronian Christophers DeVoe Fletcher Lee McGinnis Samolewicz</p>	<p>X</p>	<p>X X X X X X X X X</p>	<p>X X X X X X X X X</p>		

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<u>COMMITTEE REPORTS</u>						
<p><u>Building Committee Report</u> - Chairman O'Connell reported that a tenant from the Bank of America building called to complain about the elevators. Keys will be distributed to tenants as a temporary solution. Chairman O'Connell directed the pension office to send out an email notice to BCOM requesting a key by the end of the week. The installation of the new elevators is scheduled to begin in January. BCOM is trying to expedite this. Vice Chairman Avallone said he was looking over the samples for the interior of the elevator and the doors and the selections he felt would be appropriate may add an additional expense. Mr. Sugarman advised that BCOM was hired to handle all the details for the building. They have accepted fiduciary responsibility to do this. They can come back with a recommendation. Minor details such as color schemes are up to BCOM.</p>						
<p><u>Annual Educational Symposium</u> - Trustee Christophers asked for a date for the Educational Symposium. The Board decided on April 22 - 24, 2010. He felt the Board and the sponsors, our investment managers, were happy with the venue at the Deerfield Beach Embassy Suites. Mr. Mulfinger will speak with the investment managers. A separate meeting for the members was discussed regarding retirement planning. The current schedule, however, will be very tight with all the presentations of the investment managers.</p>						
<u>OLD BUSINESS</u>						
<p>Chairman O'Connell said the proposed ordinance for Police Officers relating to pensionable overtime was discussed earlier in the meeting. There were no updates on the proposed ordinance relating to the plan qualification or the proposed ordinance to comply with Chapter 2009-97, Law of Florida.</p>						
<u>MISCELLANEOUS</u>						
<p>Chief Morton inquired if the new auditors could be asked whether it is necessary to mail out the affidavits to the retirees on an annual basis. Ms. Dalton will pose the question.</p>						
<p>Chairman O'Connell reviewed the dates for upcoming conferences. The Division of Retirement will hold its annual pension conference in Orlando on October 21-23, 2009. The IFEBP 55th Annual Conference will be held in Orlando on November 8-11, 2009. FPPTA Trustees School is scheduled for February 7-10, 2010 in Jacksonville, FL.</p>						

ADJOURNMENT

MOTION: To adjourn the October 19, 2009 meeting.

Meeting adjourned at 4:34 p.m.

Lindsay Dalton, Deputy Administrator

O'Connell			X	
Avallone			X	
Aaronian			X	
Christophers	X		X	
DeVoe			X	
Fletcher		X	X	
Lee			X	
McGinnis			X	
Samolewicz			X	

Distribution:
 Board of Trustees
 Robert A. Sugarman, Esq.
 J. Stephen Palmquist
 Charles H. Mulfinger, II
 City Manager
 Mayor
 City Commission

