

POMPANO BEACH POLICE & FIREFIGHTERS' RETIREMENT SYSTEM

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

**BOARD OF TRUSTEES MINUTES
REGULAR MEETING
DECEMBER 21, 2015**

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 2:02 PM.

PRESENT: Chairman Paul O'Connell
Vice-Chairman Richard Samolewicz
Trustee Sharra Aaronian
Trustee Daniel Christophers
Trustee Vincent Femia (entered at 2:15 pm)
Trustee Patrick Fletcher (entered at 2:25 pm)
Trustee David Hall
Trustee Peter McGinnis
Trustee Jorge Rossi

ABSENT:

ALSO PRESENT: Robert Sugarman, Esq., Board Attorney
Glenda Rowley, Executive Director
Debra Tocarchick, Deputy Director
Amanda Cintron, Deputy Director
Gary Morton, Police Retiree Liaison
Richard Avallone, Fire Retiree Liaison

AUDIENCE TO BE HEARD

None

APPROVAL OF AGENDA

MOTION: To approve the agenda for December 21, 2015, as presented.
PASSED 7-0

O'Connell			X	
Samolewicz			X	
Aaronian			X	
Christophers			X	
Hall	X		X	
McGinnis			X	
Rossi		X	X	

APPROVAL OF MINUTES

MOTION: To waive the reading of the minutes of the Regular Board meeting on November 16, 2015, and approve same as submitted.
PASSED 7-0

O'Connell				X
Samolewicz		X		X
Aaronian				X
Christophers				X
Hall				X
McGinnis	X			X
Rossi				X

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<p>Board of Trustees Minutes Page Two</p> <p style="text-align: right;">December 21, 2015</p>	TRUSTEES	M	S	Y	N
<p><u>RATIFICATION AND APPROVAL OF WARRANTS</u></p> <p>MOTION: To ratify and approve payments of benefits and expenses as set forth on Warrant No. 4668, \$5,123.20; No. 4669, \$4,650.49; No. 4670, \$40,446.83; No. 4671, \$30,933.57; No. 4672, \$7,000.00; No. 4673, \$3556.90; No. 4674, \$12,000.00; No. 4675, \$3,569.56; No. 4676, \$1,103.81; No. 4677, \$864.00. PASSED 7-0</p> <p><u>SUGARMAN & SUSSKIND LEGAL REPORT</u></p> <p>Sugarman & Susskind reported that a question arose regarding service-incurred disability retirements and whether they are subject to taxation. A member of the PBPFRS who is also receiving a benefit from the Florida Retirement System (FRS) received a letter from the FRS stating that FRS in-line-of-duty disability benefits cease to be excluded from taxable income when recipients reach normal retirement age. The Board sought confirmation as to whether the law had changed and whether its members must also include service-connected disabilities in taxable income at normal retirement age.</p> <p>Based on discussions with the Assistant Director of FRS and a review of the e-mail correspondence that FRS is relying on, Sugarman & Susskind does not agree with FRS' conclusion. There may be other facts not disclosed that are germane to FRS' conclusion but that is between the FRS and their legal counsel. The opinion that Sugarman & Susskind issued to the Board after extensive research is solid and reinforces that the law has not changed. Benefits for service-connected disabilities, provided the benefit is not converted to normal retirement, will be tax-free for the member's lifetime, as well as the survivor annuitant's lifetime. While Sugarman & Susskind does not represent members on individual pension issues, they are willing to confer with the member's counsel about the remedies available under the Internal Revenue Code and the Florida Retirement System Act to correct what appears to be an error based on the limited facts available.</p> <p>Sugarman & Susskind addressed the Voluntary Compliance Agreement between Pembroke Pines Police & Fire and the Internal Revenue Service regarding in-service distributions that was reported in the Cypen & Cypen Newsletter on December 10. In order to preserve the tax-qualified status of the Plan, Pembroke Pines was permitted to pass an ordinance amendment to permit retirees to return to work in non-bargaining positions. A question was raised as to how this compares to the situation with the Pompano Beach Fire Chief.</p> <p>The difference is that under the Pembroke situation the Chief was less than age 50 when he retired under that pension plan. The Pompano Chief was over age 50, the normal retirement age for public safety officers under the Internal Revenue Code, so no amendment to the Plan is needed to preserve the tax-qualified status. However, both Chiefs are still subject to the 10% "penalty" because pre-arranged employment is not a bona fide separation of service for purposes of this early distribution tax.</p>	<p>O'Connell Samolewicz Aaronian Christophers Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>	<p>X X X X X X</p>

<p>Board of Trustees Minutes Page Three</p> <p style="text-align: right;">December 21, 2015</p>	TRUSTEES	M	S	Y	N
<p>If Pompano has retired members that are under age 50 who return to employment with the City, then the same amendment should be considered. However, the Voluntary Compliance Program process would take 2-3 years and the cost would be approximately \$15,000.</p> <p>Ms. Rowley added that she felt the issue concerning the Plan is that there is no specific provision for in-service distributions, and the Chief is, in fact, receiving an in-service distribution. Mr. Sugarman advised that it is a concern except for the fact that the Chief had attained normal retirement age. The IRS announced at the National Association of Pension Attorneys Conference this summer that it will be issuing a final ruling on normal retirement age fairly soon and recommended waiting for the final ruling before addressing this issue further for police and fire.</p> <p>Sugarman & Susskind reported that the KKR financial litigation case handled by Robbins Geller was dismissed. The buyout was reviewed by an independent committee utilizing the Business Judgment Rule which is fairly lenient leading to the dismissal of the case.</p> <p>Sugarman & Susskind reported that a question was raised by staff with regard to a member's pension rights and responsibilities according to the Ordinance and USERRA for intervening military service. Mr. Sugarman reported that USERRA sets the minimum rights, state law sets additional rules.</p> <p>USERRA provides that a member receives service credit for his pension as if he had remained continuously employed during the period of intervening military service provided that the military service does not exceed five years. With regard to the amount of compensation to be recognized for purposes of average monthly earnings, USERRA provides that the member be credited for what he would have earned had he remained continuously employed. The question is what amount of contributions is the Plan entitled to from the member and the employer.</p> <p>Under federal law which sets the minimum, the Plan is entitled to the member contributions on the compensation recognized and the member has up to three times the period of time he was absent performing military service in which to repay it, with a maximum of five years. However, under an opinion previously made by the Division of Retirement, the member is not required to make contributions. However, to the extent that the City pays the member supplemental pay, the member must pay contributions on the supplemental pay received.</p> <p>Ms. Rowley and Ms. Tocarchick agreed with the provisions that the member would receive credit for continuous service and is required to make employee contributions on the supplemental pay received; however, they could not locate a provision within the state statues or USERRA that permits the member to receive credit for the differential compensation between his normal wage and his supplemental pay without making the associated employee contributions.</p>					

Board of Trustees Minutes Page Four	December 21, 2015	TRUSTEES	M	S	Y	N
<p>Sugarman & Susskind will research the question further, follow-up with the state to see if there has been any change to their interpretation and report back to the Board.</p>						
<p><u>ADMINISTRATIVE AND MISCELLANEOUS ISSUES</u></p>						
<p>The Executive Director recommended adopting rate of returns for the Share Plan account allocations on January 1, 2016.</p>						
<p>MOTION: To adopt the net rate of return of -1.63% as the Pension Plan Fund Rate as reported on the 9/30/2015 Breakdown of Returns Submitted by Graystone Consulting, and the 9/30/2015 Money Market Rate of 0.01% based on the RBC US Government Money Market Fund, for the purpose of crediting earnings to the Share Plan accounts on 1/1/2016. PASSED 9-0</p>	<p>O'Connell Samolewicz Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>		<p>X X X X X X X X X</p>		
<p>A semi-annual summary of staff sick and vacation accruals was submitted to the Board for informational purposes.</p>						
<p>An Executive Director Employment Agreement was submitted for consideration.</p>						
<p>MOTION: To appoint Debra Tocarchick as the Executive Director effective 1/1/2016, and to authorize the Chairman to execute the Employment Agreement. PASSED 9-0</p>	<p>O'Connell Samolewicz Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>		<p>X X X X X X X X X</p>		
<p>The authorized signer listings were updated to reflect the staff transition effective January 1.</p>						
<p>MOTION: To execute the updated PBPFRS Signatory Resolution and the Comerica Bank Authorized Signers Form effective January 1, 2016. PASSED 9-0</p>	<p>O'Connell Samolewicz Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X X X</p>		
<p>A December 1 notification of the retirement of Well's CEO was submitted. Graystone reported no concerns with the organizational change.</p>						

COMMITTEE REPORTS

No Committee Reports were rendered.

EXECUTIVE DIRECTOR'S REPORT

- ❖ The Executive Director signed a Notification of Benefits Form for Adam Burns. Mr. Burns is in receipt of his initial early retirement benefit payment. There is still a pending records request from Mr. Burns that is being verified as to whether he wishes to proceed. Board policy states he would be charged 15 cents/page.
- ❖ Administrative fees for the DROP self-directed members were waived by Alerus for quarter ended 6/30 since they were not posted timely by Alerus after multiple communications.
- ❖ The issue regarding the fair value reporting of the investment in Pompano Beach Investors, LLC has been resolved with Marcum. The investment is valued at \$3 million.

The Board of Trustees recognized Executive Director Glenda Rowley for her years of dedicated service to the Plan and congratulated her on her retirement.

RECESS FOR HOLIDAY DINNER

MOTION: To recess the December 21, 2015 meeting at 2:44 PM. The meeting will reconvene at 6:00 PM at Café Vico in Fort Lauderdale for the Holiday Dinner and will adjourn following dinner. PASSED 9-0.

The meeting adjourned at approximately 9:00 PM.

O'Connell			X
Samolewicz	X		X
Aaronian			X
Christophers			X
Femia			X
Fletcher			X
Hall		X	X
McGinnis			X
Rossi			X

Respectfully submitted,



Debra Tocarchick, Executive Director

DISTRIBUTION:

Board of Trustees
Robert A. Sugarman, Esq.
Pedro Herrera, Esq.
David Harris, Actuary
City Manager
Mayor and City Commission

City Clerk
Assistant City Attorney
City HR Director
President IAFF Local 1549
Marcum

REGULAR MEETING – DECEMBER 21, 2015

ITEM NO. 5 - WARRANT NOS. 4668 THROUGH 4677

Ratified and Approved on 12/21/2015

WARRANT NO.	PAYABLE TO	DESCRIPTION	AMOUNT
4668	Debra Tocarchick	Salary increase effective 1/1/2016, less 10% 401(a) employee contribution, less 457 deferred compensation, \$3,941.70; 401(a) employee and employer contribution, \$931.50; 457 employee contribution; \$250.00, Total \$5,123.20	5,123.20
4669	Adam S. Burns	Early retirement benefit effective 12/1/2015; \$4,650.49	4,650.49
4670	Morgan Stanley Comerica Bank ThreatTrack Jorge Rossi	Investment consulting fee quarter ended 9/30/15; \$20,403.71; DROP consulting fee quarter starting 10/1/15, \$3,750.00, Total \$24,153.71 Invoice No. 417452, custodial fees for quarter ended 9/30/15; \$15,447.59 VIPRE anti-virus 3-year renewal; \$159.00 IFEBP Annual Conference expense reimbursement; \$686.53	40,446.83
4671	Glenda Rowley	Final payout of sick leave accrual for retirement as of 12/31/15, not pensionable; \$30,933.57	30,933.57
4672	Sugarman & Susskind, PA	Revised monthly retainer for legal services effective 1/1/16; \$7,000.00	7,000.00
4673	Alerus Xerox Marcum	Fund Rate administrative and processing fee for 9/30/15; \$825.00 Reissue Inv. No 081448717 September Lease, \$173.88; Inv No. 082474309, November Lease; \$172.94; excess print charges; \$2.08, Total \$348.90 Inv No. 10595873, progress audit billing for 9/30/15; \$2,383.00	3,556.90
4674	John Stabile	Change in annual installments payments from Fund Rate DROP account commencing 2/1/16; \$12,000.00	12,000.00
4675	Amanda Cintron Vantagepoint Transfer Agents	Payroll starting 01/01/2016 and payable each pay period after, \$3,519.56 Vantagepoint Transfer Agents – 457 Plan for Amanda Cintron, \$50.00	3,569.56
4676	Bank of America	Glenda Rowley: Christmas gift, \$31.79 Debbie Tocarchick: Notary application (Cintron), \$100.65; Meeting supplies, \$26.63, Total: \$127.28 Paul O'Connell: Business lunch, \$112.22 Amanda Cintron: FPPTA Winter School (hotel deposit); \$208.13 Vincent Femia: FPPTA Winter School; \$208.13 David Hall: FPPTA Winter School; \$208.13 Richard Samolewicz: FPPTA Winter School; \$208.13	1,103.81
4677	Travelers	Renewal of Workers Compensation 1/1/16 to 1/1/17; \$864.00	864.00