

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

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

**BOARD OF TRUSTEES MINUTES  
REGULAR MEETING  
APRIL 20, 2016**

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 9:01 AM.

PRESENT: Chairman Paul O'Connell  
Vice-Chairman Richard Samolewicz  
Trustee Sharra Aaronian  
Trustee Daniel Christophers  
Trustee Vincent Femia  
Trustee Patrick Fletcher  
Trustee David Hall  
Trustee Peter McGinnis  
Trustee Jorge Rossi

ALSO PRESENT: Robert A. Sugarman, Esq., Board Attorney  
Debra Tocarchick, Executive Director  
Amanda Cintron, Deputy Director

VISITORS: Mark Booth, Esq. Rogers, Morris & Ziegler, LLP  
Chad Brocato, Esq. Murphy & Brocato  
Brian Fitzpatrick, brother-in-law of Richard Sandell

AUDIENCE TO BE HEARD

The attorneys for Lisa Sandell and Diana Sandell deferred their comments on the matter of Captain Richard Sandell's death benefits until Sugarman & Susskind's Legal Report.

APPROVAL OF AGENDA

**MOTION:** To approve the agenda for April 20, 2016, as presented. PASSED 9-0.

APPROVAL OF MINUTES

**MOTION:** To waive the reading of the minutes of the Regular Board meeting on March 21, 2016, and to approve same as submitted. PASSED 9-0.

	<b>M O T I O N</b>	<b>S E C O N D</b>	<b>V O T E D Y E S</b>	<b>V O T E D N O</b>
O'Connell			X	
Samolewicz			X	
Aaronian			X	
Christophers			X	
Femia			X	
Fletcher	X		X	
Hall			X	
McGinnis		X	X	
Rossi			X	
O'Connell			X	
Samolewicz		X	X	
Aaronian			X	
Christophers			X	
Femia			X	
Fletcher			X	
Hall			X	
McGinnis	X		X	
Rossi			X	

Board of Trustees Minutes Page Two	April 20, 2016	TRUSTEES	M	S	Y	N
<u>RATIFICATION AND APPROVAL OF WARRANTS</u>						
<p><b>MOTION:</b> To ratify and approve payments of benefits and expenses as set for on Warrants No. 4699, \$16,136.81; 4700, \$55,790.84; 4701, \$685,951.54; 4702, \$684.98; 4703, \$93,416.80; 4704, \$2,872.66. 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</p>	<p>X X X X X X X X</p>	
<u>ADMINISTRATIVE AND MISCELLANEOUS ISSUES</u>						
<p>The Administrative and Miscellaneous Issues were heard out of order.</p>						
<p>The Executive Director submitted two IT upgrade proposals from Economic Computers. The first proposal is to install the StorageCraft ShadowProtect for Windows Desktop on the 32-bit computer that Pension Assistant resides on. This ensures that Pension Assistant can be recreated in the event of a theft or disaster until such time as a new pension administration system is purchased and implemented. The second proposal is to install a commercial grade access point router to improve the Wi-Fi signal strength to the conference room.</p>						
<p><b>MOTION:</b> To approve the purchase and installation of StorageCraft ShadowProtect for Windows Desktop at a cost not to exceed \$289.85, as recommended by Economic Computers. 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</p>	<p>X X X X X X X X</p>	
<p><b>MOTION:</b> To approve the purchase and installation of a commercial grade Ubiquiti UniFi Access Point router at a cost no to exceed \$415.00, as recommended by Economic Computers. 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</p>	<p>X X X X X X X X</p>	
<p>The Executive Director distributed a memorandum and packet of information as an update regarding the ongoing search for a new Pension Administration System (PAS). The materials included a report identifying the advantages and disadvantages of a proposed PAS, staff comments on each system following the vendor demonstration, a comparison of quoted costs, and a profile and analysis of the RFP responses.</p>						

Board of Trustees Minutes Page Three	April 20, 2016	TRUSTEES	M	S	Y	N
<p>The Executive Director advised the Board that due to the potential large capital outlay and lengthy timeline for implementation, she was requesting that each Trustee review the materials and formulate any questions they may have for the individual vendors for follow-up and further discussion at the May Board meeting. After the Board's initial review, if there is a comfort level for moving forward with the project, she would recommend:</p> <ul style="list-style-type: none"> <li>➤ short-list the vendors,</li> <li>➤ contact vendor(s) references,</li> <li>➤ obtain a copy of the SSAE 16 SOC 2 report and request Marcum review it.</li> <li>➤ vendor(s) presentation to the Board</li> <li>➤ further fee negotiation</li> <li>➤ site visit (optional)</li> <li>➤ legal review of the proposed contact</li> </ul> <p>The materials including the formal RFP response from each vendor will be put on the One Drive and a link e-mailed to each Trustee so they may access the materials in electronic format.</p> <p>Some discussion ensued regarding a proposed new PAS. The Executive Director advised the Board that all three vendors are proposing a cloud based solution and discussed the pros and cons. A web-based system applies updates system-wide to all of its clients so there would always be the latest version of the software and no risk of an outdated product that can no longer run on new hardware. In response to a Trustee's question, the Executive Director identified each vendor's exposure to the Florida market.</p> <p>There was discussion about the OPAL Public Funds Summit East which will be held July 18-20, 2016, in Newport, RI.</p> <p><b>MOTION:</b> To authorize attendance at the Public Funds Summit East by any interested Trustee who desires to attend. PASSED 9-0.</p> <p>Trustees were reminded to let staff know if they are interested in attending any upcoming educational events.</p> <p>The Executive Director submitted the Deputy Director's six-month performance review. Based on her outstanding review, she recommended increasing Ms. Cintron's salary by 3% effective May 1, 2016, in accordance with the Board's Compensation Policy. Hereafter, Ms. Cintron will be reviewed annually.</p>						
		O'Connell Samolewicz Aaronian Christophers Femia Fletcher Hall McGinnis Rossi	X		X X X X X X X X X	

Board of Trustees Minutes Page Four	April 20, 2016	TRUSTEES	M	S	Y	N
<p><b>MOTION:</b> To accept the Executive Director's review and salary recommendation for the Deputy Director, effective May 1, 2016. PASSED 7-0 (Trustees McGinnis and Rossi were out of the room).</p>	<p>O'Connell Samolewicz Aaronian Christophers Femia Fletcher Hall</p>	<p>X</p>	<p></p>	<p></p>	<p>X X X X X X X</p>	<p></p>
<p><u>SUGARMAN &amp; SUSSKIND, PA LEGAL REPORT</u></p>						
<p>The visitors in the matter of Captain Richard Sandell's death benefit introduced themselves as Attorney Mark Booth representing Lisa Sandell on behalf of her minor daughter Lauren Sandell; Attorney Chad Brocato, representing Diana Sandell and Richard Sandell III; and Brian Fitzpatrick, brother-in-law to Captain Sandell, representing Sean Sandell and Richard Sandell III.</p>						
<p>Mr. Sugarman reiterated the circumstances surrounding the issue indicating that three parties have filed claims for Captain Sandell's death benefit – none of whom are the designated principal beneficiary. The three claimants are identified as 1) Diana Sandell on behalf of herself and her son Richard Sandell III; 2) Lisa Sandell on behalf of her minor daughter Lauren Sandell; and 3) Sean Sandell who is the brother of Captain Sandell and named as the contingent beneficiary. Mr. Sugarman summarized the death benefit alternatives under the Plan to be selected by the beneficiary, and each claimant's individual claim to benefits.</p>						
<p>The principal beneficiary designated on Captain Sandell's beneficiary forms for his pension and his share plan was "Rip Jason Finst in Trust for Lauren Marie Sandell". Sugarman &amp; Susskind's opinion is based on the assumption that there is no written trust agreement since the Board has not been able to locate one. Further, Rip Finst submitted a letter to the Board declining to serve as trustee. Sugarman and Susskind opined that by using the phrase 'In Trust For', the Captain created a trust for Lauren Sandell that is governed by Florida trust law which sets forth certain duties and obligations of the trustee. A trust does not fail for the absence of a written trust document, or for the absence of a trustee.</p>						
<p>As a minor child, Lauren Sandell cannot appoint another trustee, so there are two options in which a successor trustee can be accomplished. The first is that the Board can go to Court and ask the Court to appoint a successor trustee. With this option, all the claimants would have the ability to make their case as to why they should be the trustee. The second option would be if all the claimants could agree to a named trustee, agree on the beneficiary and withdraw all claims so the trustee can remain as the single claimant to be recognized by the Board.</p>						
<p>If all of the parties cannot agree, Sugarman &amp; Susskind does not foresee any resolution that will not end up with the Board being sued by another claimant. To protect the board from litigation, Sugarman &amp; Susskind would then recommend filing an interpleader case requesting the Court to appoint a successor trustee and make the award decision.</p>						

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<p>Taking the claimants to court reduces the risk of double payment. If the Board granted the benefit to one party and the losing party(s) sued the Board and prevailed, it would be very difficult for the board to recover payments made to the initial party. The procedure of interpleader was created for just this type of multiple-claim scenario.</p> <p>Sugarman &amp; Susskind proposed allowing the claimants the opportunity to come to an agreement by the June 20 Board meeting. If the claimants can agree, a document will be drafted to indicate their agreement and eliminate the potential for further suit. The agreed upon trustee would have the responsibility to choose between two benefit options: the immediate benefit to the surviving spouse and children, or the single benefit payable at Captain Sandell's normal retirement age. It could be argued that the trustee's obligation is to the named beneficiary so it is unclear if the trustee would have the authority to give the money to other claimants. If the trustee violates his or her obligation to the trust, it would be an issue between the beneficiary and trustee, and not a matter for the Board.</p> <p>Mark Booth, Esq., advised the Board that as Lisa Sandell's attorney he was involved in the divorce proceedings between Captain Sandell and Lisa Sandell. He pointed out that Captain Sandell's beneficiary forms were completed in July 2012, prior to the filing of divorce papers in September 2012 and final papers in November 2013. The final divorce decree stating that Mr. Sandell would name their daughter, Lauren, as the beneficiary on his pension was handwritten by Mr. Booth in November 2013. Mr. Booth felt that Captain Sandell's beneficiary designation prior to the divorce indicated Mr. Sandell's intent to leave his benefits to his daughter - not just to meet child support obligations as set forth in the divorce decree.</p> <p>Mr. Booth indicated that he feels the law of the Courthouse removes the emotion from the situation and focuses on the facts and law. He agrees with the findings in Sugarman and Susskind's opinion and is confident that there is a trust, a beneficiary, and that Lisa Sandell will be named as trustee. Mr. Booth requested that the record reflect that under Florida law if a person makes a claim for a benefit that is not factually or legally supported they will be obligated to pay the other party's attorney fees.</p> <p>Chad Brocato, Esq., representing Diana Sandell and Richard Sandell III, stated there are a number of legal issues and he does not reasonably see how this situation can avoid going to Court. Mr. Brocato stated that under Florida statute Diana Sandell has a right to an elective share of the public pension as part of the elective estate. Additionally, Mr. Brocato argued the validity of the trust. If the trust were to be upheld in Court, he would argue that it should be reformed by the Court to take into consideration the intent of Mr. Sandell to take care of all of his spouse and children beyond his child support obligation to Lauren Sandell.</p> <p>Mr. Brocato acknowledged both parties would likely sue if the Board were to grant a benefit to the other which is more than likely why Jason First declined to serve as trustee because he did not want to be pulled into a legal battle.</p>						



Sugarman and Susskind reported that RBC Global revised their proxy voting policy effective April 1 and are now offering the Taft-Hartley Advisory Services (ISS) guidelines in addition to their custom guidelines. The Taft-Hartley guidelines are much better than the existing custom guidelines and more in tune with the needs of those who support the fund. The Board can choose to either discuss the guidelines with RBC at the upcoming Symposium or decide today to accept the Taft-Hartley guidelines.

**MOTION:** To adopt the new Taft-Hartley Advisory Services (ISS) proxy voting guidelines according to RBC Global Asset Management's proxy voting policy effective April 1, as recommended by Sugarman and Susskind. PASSED 7-0 (Trustees McGinnis and Rossi were out of the room)

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

Sugarman and Susskind reported that a follow-up correspondence was sent on April 12 to the Division of Retirement with regard to the question on whether members must make contributions on the differential between supplemental and normal pay in order for the differential pay to be recognized as pensionable under USERRA and state statutes. They are still waiting for a response.

COMMITTEE REPORTS

No committee reports were rendered.

EXECUTIVE DIRECTORS REPORT

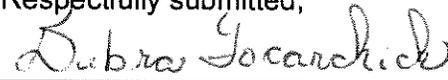
The Executive Director reported that Grover Corlew will be issuing parking decals for the trustees to hang in their rear view mirrors when they are parked in the lot after hours. This is to distinguish tenants from others who will be leasing the parking space. She will distribute the decals when they are received.

ADJOURNMENT

**MOTION:** To adjourn the April 20, 2016 meeting at 10:35 AM. PASSED 7-0 (Trustees McGinnis and Rossi were out of the room)

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

Respectfully submitted,

  
Debra Tocarchick, Executive Director

DISTRIBUTION:

Board of Trustees	City Clerk
Robert A. Sugarman, Esq.	Assistant City Attorney
Pedro Herrera, Esq.	City HR Director
David Harris, Actuary	President IAFF Local 1549
City Manager	Marcum
Mayor and City Commission	

**REGULAR MEETING – APRIL 20, 2016**

**ITEM NO. 5 - WARRANT NOS. 4699 THROUGH 4704**

**Ratified and Approved on 04/20/2016**

<b>WARRANT NO.</b>	<b>PAYABLE TO</b>	<b>DESCRIPTION</b>	<b>AMOUNT</b>
<b>4699</b>	Comerica Bank  David Hall Florida UC Fund Xerox Corporation	Inv No. #301497; Custodial fee for quarter ending 12/31/15; <b>\$15,349.46</b> FPPTA Trustee School expense reimbursement; <b>\$17.28</b> Reemployment Taxes quarter ending 3/31/16; <b>\$587.95</b> Inv No. 083936380, March lease; \$172.94; excess print charges; \$9.18, <b>Total \$182.12</b>	<b>16,136.81</b>
<b>4700</b>	NFS, LLC FBO Richard F. Hall - IRA	Trustee-to-trustee transfer of Share Plan balance due to separation of service on 12/31/2015; <b>\$55,790.84</b>	<b>55,790.84</b>
<b>4701</b>	NFS, LLC FBO Richard F. Hall – IRA	Lump sum distribution of 95% Fund Rate DROP account via trustee-to-trustee transfer to NFS, LLC – IRA due to separation of service on 12/31/2015; <b>\$685,951.54</b>	<b>685,951.54</b>
<b>4702</b>	Bank of America	Debra Tocarchick: Website domain renewal; <b>\$9.98</b> Paul O'Connell: Business lunch; <b>69.36</b> Amanda Cintron: Telephone/Internet, \$532.30; meeting supplies, \$52.42; Courier, \$20.92, <b>Total: \$605.64</b>	<b>684.98</b>
<b>4703</b>	Standish Center Coast Capital Sands Capital Renaissance	Inv mgmt fees qtr ended 3/31/16; <b>\$19,168.87</b> Inv mgmt fees qtr ended 3/31/16; <b>\$9,985.76</b> Inv mgmt fees qtr ended 3/31/16; <b>\$38,722.71</b> Inv mgmt fees qtr ended 3/31/16; <b>\$25,539.46</b>	<b>93,416.80</b>
<b>4704</b>	Office Depot  US HealthWorks Medical  Travelers Insurance	Inv No. 832353975001, \$20.30; Inv No. 833205423001, office supplies, \$30.36, <b>Total: \$50.66</b> Inv No. 0352536-FL, (9) Pre-employment physicals @ \$280.00 each; <b>\$2,520.00</b> Policy No. 396D2434UB, Additional premium for Workers Compensation 2015-16 policy periods; <b>\$302.00</b>	<b>2,872.66</b>