

POMPANO BEACH POLICE & FIREFIGHTERS' RETIREMENT SYSTEM

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

**BOARD OF TRUSTEES MINUTES
REGULAR MEETING
OCTOBER 19, 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 3:01 PM.

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

ABSENT: Vice-Chairman Richard Samolewicz

ALSO PRESENT: Pedro Herrera, Esq., Board Attorney
Glenda Rowley, Executive Director
Debra Tocarchick, Deputy Director
Gary Morton, Police Retiree Liaison
Richard Avallone, Fire Retiree Liaison
Gregg Rossman, Esq., Bauman & Rossman
Adam Burns, police member
Andrea Wolfson, Esq., Wolfson & Konigsburg
Susan Silverman, Wolfson & Konigsburg
Donna Murillo, Court Reporter

VISITORS: Steve Hudson, IAFF Local 1549

AUDIENCE TO BE HEARD

None

APPROVAL OF AGENDA

MOTION: To approve the agenda for October 19, 2015, as presented.
PASSED 8-0.

	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	
Aaronian			X	
Christophers	X		X	
Femia			X	
Fletcher			X	
Hall		X	X	
McGinnis			X	
Rossi			X	

Board of Trustees Minutes Page Two	October 19, 2015	TRUSTEES	M	S	Y	N
<u>APPROVAL OF MINUTES</u>						
<p>MOTION: To waive the reading of the minutes of the Professional Advisors Review Committee meeting on September 17, 2015, and the Regular Board meeting on September 21, 2015, and to approve same as submitted. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	<p>X X X X X X X</p>	
<u>APPROVAL OF DROP LOAN APPLICATION</u>						
<p>MOTION: To approve the DROP loan application from Scott T. Ambrose. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	<p>X X X X X X X</p>	
<u>RATIFICATION AND APPROVAL OF WARRANTS</u>						
<p>MOTION: To ratify and approve payment of benefits and expenses as set forth on Warrant No. 4646, \$650,342.51; No. 4647, \$1,545.67; No. 4648, \$422,406.53; No. 4649, \$6,910.14; No. 4650, \$159.90; No. 4651, \$6,221.75; No. 4652, \$1,046.74; No. 4653, \$495.63; No. 4654, \$30,000.00; No. 4655, \$93,881.88. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	<p>X X X X X X X</p>	
<u>SUGARMAN & SUSSKIND LEGAL REPORT</u>						
<p>Due to the absence of Mr. Burns and his attorney, Ms. Wolfson, discussion of the matters contained in Wolfson & Konigsburg's correspondence dated October 7, 12 and 14, 2015 was deferred until their arrival. A court reporter ordered by Wolfson & Konigsburg was present.</p>						
<p>Following the last meeting, the Executive Director found that the Comerica Bank checking account established for receipt of the monthly mortgage interest payments from Grover Corlew is able to accept an ACH transfer at no fee. Therefore, the issue of the wire transfer fee is resolved and an assignment of the mortgage to the PBPFRS is not necessary.</p>						
<p>Mr. Herrera reported that Mr. Rossman, a potential candidate for special counsel in the Adam Burns formal disability hearing, was present to observe. Sugarman & Susskind will keep the Board apprised of the process to identify and retain special counsel in this matter.</p>						

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<u>ADMINISTRATIVE AND MISCELLANEOUS ISSUES</u>						
The proposed 2016 meeting schedule was submitted for consideration.						
<p>MOTION: To approve the 2016 meeting calendar as presented. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>		<p>X X X X X X X X</p>	
It was noted that the Board maintains a model 401(a) Money Purchase Plan through ICMA for its employees. ICMA has submitted a restated plan to the IRS for qualification and is now requiring that all members adopt the new restated plan. A proposed resolution was provided for the Board's consideration.						
<p>MOTION: To adopt by Resolution the amended and restated ICMA Retirement Corporation Governmental Money Purchase Plan & Trust in accordance with IRS requirements as set forth by ICMA-RC. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>		<p>X X X X X X X X</p>	
A Code of Conduct for Public Pension Service Providers drafted by NCPERS was submitted for consideration. Chairman O'Connell reported that this had been discussed at the recent FPPTA Trustees' School. Apparently, some providers that do business with public pension plans are also advocating for their demise. Adoption of the Code would be their pledge that they would cease that type of activity if they want to provide services to these public plans.						
<p>MOTION: To adopt the NCPERS Code of Conduct for Pension Service Providers and ask the current providers to endorse the Code, incorporate the Code as part of service provider searches/RFP processes, and notify NCPERS of the Board's decision to adopt the Code. TABLED.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>		<p>X</p>		
Upon the advice of counsel, this Code will be sent to the Investment Consultant for forwarding to the investment managers to determine if there is a conflict with any of them. If there are any conflicts, then the Board will determine the best course of action.						

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<p>An October 7 communication from NCPERS regarding its new identify theft protection program was submitted for consideration. There would be no cost to the plan but the members could sign up for single or couple coverage at a monthly fee. The Board agreed that the existing NCPERS link on the website was sufficient to permit a member to do their own due diligence on the offer as the Board does not advocate for any products or services. However, the Chairman will mention it in the next newsletter.</p> <p>The Board reviewed the art rendering of the logo and name placement on the Trustee shirts and agreed to the PBPFERS acronym and Trustee's full name on the left and the logo on the right. Staff was directed to order the shirts.</p> <p>The Board discussed various venues for the holiday party and agreed on Café Vico. The December 21 Board meeting will commence at 2:00 pm. The cocktail hour will start at 6:00 pm and dinner at 7:00 pm. Mr. Herrera is working on a sponsor.</p> <p>It was noted that IUPA is the new BSO bargaining unit.</p> <p><u>COMMITTEE REPORTS</u></p> <p>There were no committee reports.</p> <p><u>EXECUTIVE DIRECTOR'S REPORT</u></p> <p>The Executive Director reported on receipt of the 2014 fire supplemental check in the amount of \$68,643.01 and acknowledgment of same to the Division of Retirement.</p> <p><u>SUGARMAN & SUSSKIND LEGAL REPORT (CONTINUED)</u></p> <p>Upon the arrival of Mr. Burns and Ms. Wolfson, the Board returned to the agenda item regarding the matters contained in her correspondences dated October 7, 12 and 14.</p> <p>Ms. Wolfson referenced her October 12 letter, which she wrote after her client claimed that he had off-the-record private discussions with two Board members with regard to the probability of success on his pension application. She questioned whether the Board can be fair and impartial based on what has happened in this case.</p> <p>Ms. Wolfson stated that they have filed for a formal appeal and referenced the court reporter's transcript of the discussion that occurred at the August 17 Board meeting, where she was assured that her client would be given a formal hearing under the Administrative Procedures Act and she asked questions regarding the procedural aspects of that hearing. Ms. Wolfson asserted that none of her questions have been answered within a reasonable period of time, as it is already 60 days after the date of the last hearing. She has not even been provided the name of the attorney who will be serving as special counsel for the Board.</p>						

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<p>However, their main objection was to the action that was taken by the Board at the last meeting on September 21 without prior notice to Ms. Wolfson or her client, which they consider to be a violation of her client's due process rights according to FS 112.66 and the Ordinance. For the record, they object to the new vote on Mr. Burns' disability application without advance notice that such action would be taken. There was no full and fair opportunity to present the arguments that were presented in August to those Trustees who were not present then but voted at the last meeting.</p> <p>Ms. Wolfson also raised the issue of her client's eligibility for early retirement. He is vested and meets every eligibility criteria for that pension so he is requesting that the Board permit him to commence his early retirement benefit while his appeal on the disability application is proceeding. If he is successful in that appeal, then he would want to have the early retirement benefit converted to a disability benefit. She cited Florida Statutes, Chapter 121 as the basis for this request. She claimed that under Florida law, all plans must be uniform and our plan document does not preclude Mr. Burns from receiving his early retirement benefit while appealing his disability application. She said that if the Board does not go through with the formal hearing after approving his early retirement benefit, then she will have exhausted all remedies and will take the matter to court to determine the issues of law, whether the proceedings were fair and if her client's due process rights were violated.</p> <p>Mr. Herrera responded that she would have every right to do so but, based on her arguments and correspondence, she has not presented any legal basis and he does not believe there is any legal basis for her claims. He noted that there is no provision in the pension plan that would provide for such a conversion of benefit forms and the Board has never provided any plan member such a benefit. The Board does not have the authority to grant benefits that are not specifically provided for in the plan or under Chapters 112, 175 and 185. He also noted that the statute referenced by Ms. Wolfson only pertains to the Florida Retirement System (FRS), which does not apply in this case. He said that once a benefit is granted, the decision is final and the member cannot thereafter go back or change to another benefit form.</p> <p>With regard to Ms. Wolfson's claim of a due process violation at the last meeting, Mr. Herrera noted that her client was present and because of that, he raised the issue of the vote taken at the prior meeting in an attempt to clarify that action and afford her client due process. He also again stated that neither she nor her client had raised an issue with the vote taken at the August 17 hearing and all parties clearly understood the Board's action in denying her client's application for service connected disability benefits. Their request for an appeal undoubtedly indicated their assent to the Board's denial action. The motion at the prior meeting had been to grant her client's disability application, which motion failed 3-4. There was no motion or discussion to table the matter. While that necessarily implied that the application was denied, he advised the Board that, in the interest of clarification of the record for Mr. Burns' appeal, it would be appropriate to</p>						

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<p>make another motion which was wholly consistent with the prior Board's action to officially deny the application, which it did. The outcome was the same in either case and her request to appeal was already received and being considered. In any event, if she felt that due process had been compromised, then she would be within her rights to have the matter addressed again with her and her client now present. She replied that she was not prepared to do that at this time. Mr. Herrera noted that the formal hearing would cure what she perceived as a procedural due process violation. There was some discussion about when that would take place and she was informed that it would proceed once the Board retained its special counsel, which it is in the process of doing. Also, a date cannot be set until the discovery process is known and completed. Mr. Herrera said he would provide Ms. Wolfson with all the details.</p> <p>Ms. Wolfson said her client will proceed with his application for Early Retirement and she will proceed with getting him a fair hearing. It was determined that Mr. Burns had not yet submitted his Early Retirement application. Mr. Herrera again informed her that should he submit his application and should it be approved by the Board, then the Board would be barred from entertaining her appellate arguments at a formal hearing with regard to the disability application. She replied that once she receives official notice of that, then she will be free to proceed either with the Circuit Court or "other forms". Chairman O'Connell again clarified that if the Board approves Mr. Burns' early retirement application, then the disability case is done. Ms. Wolfson said she understood that the Board is going to take the position that, upon granting the early retirement application, his right to any other proceedings on his disability pension have been somehow waived. However, for the record, they are not waiving any such right.</p> <p>Ms. Wolfson dismissed the court reporter and she, her client, her assistant and the court reporter exited the meeting at approximately 3:50 pm.</p> <p>Chairman O'Connell called for a short break and the meeting reconvened at approximately 4:00 pm. He noted that he had been courteous to Mr. Burns by returning his telephone calls but they discussed nothing of any substance. He apologized for any perceived wrongdoing on his part and said that, going forward, all communications regarding Mr. Burns will be made through the attorneys.</p> <p>Mrs. Rowley had an application for Early Retirement that Mr. Burns handed to her during the break. She informed the Board that he asked her if the meeting was adjourned and she informed him that the Board was only taking a break, at which time he asked her to give his application to the Chairman for consideration. It was agreed that it could not be acted upon today because it was not submitted on time in order to be included on the agenda. Therefore, it will be addressed at the November meeting.</p> <p>Mr. Herrera noted that if Mr. Burns meets the eligibility requirements, which he does, then the Board does not have a choice but to grant the benefit. He reiterated his contention that once Mr. Burns commences receiving that benefit, then under both the City code and Chapters 175 & 185 he would</p>						

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<p>no longer be eligible for the disability pension. The City code does not have a conversion provision except for firefighters participating in the DROP, which was adopted as a term in their Collective Bargaining Agreement with the City.</p> <p>There was discussion about how to go forward, in light of Ms. Wolfson's "lack of due process" claims. Although she claimed she did not receive notice of the September proceedings "on behalf of her client", it was noted that she had received the agenda on behalf of another client so she knew Mr. Burns' case would be discussed. Ultimately, it was decided that Ms. Wolfson would be notified of two options for the November meeting:</p> <ol style="list-style-type: none"> 1. In the interest of curing any due process issues, she may reopen the informal disability hearing, let the Board rehear the case and vote again; or 2. She may waive that right and proceed with Mr. Burns' Early Retirement application, which the Board will act on as though it supersedes and ends the disability application. <p>MOTION was made to proceed as noted above. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	<p>X X X X X X X</p>	
<p>Mr. Herrera will formally notify Ms. Wolfson in writing.</p> <p><u>ADMINISTRATIVE AND MISCELLANEOUS ISSUES (CONTINUED)</u></p> <p>Mrs. Rowley reported that the Marriott submitted their proposal for the 2016 Educational Symposium. It is essentially the same as for prior years except for 2 items: 1) The room rate was raised from \$169 to \$189 but it now includes the breakfast buffet and 2) they raised the beverage (water and soda) rates from \$3.75 to \$4.00.</p> <p>MOTION to accept the Marriott proposal and authorize the Chairman to sign the contract. PASSED 8-0.</p>	<p>O'Connell Aaronian Christophers Femia Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	<p>X X X X X X X</p>	

ADJOURNMENT

MOTION: To adjourn the October 19, 2015 meeting at 4:20 PM. PASSED 8-0.

O'Connell
Aaronian
Christophers
Femia
Fletcher
Hall
McGinnis
Rossi

X

X

X
X
X
X
X
X
X

Respectfully submitted,


Glenda Rowley, Executive Director

Distribution:

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

REGULAR MEETING – OCTOBER 19, 2015

ITEM NO. 6 - WARRANT NOS. 4646 THROUGH 4655

Ratified and Approved on 10/19/2015

WARRANT NO.	PAYABLE TO	DESCRIPTION	AMOUNT
4646	Raymond James & Associates, Inc. - IRA FBO Patricia A. Bradley	Lump sum distribution of 95% of Fund Rate DROP account via trustee-to-trustee transfer to Raymond James & Associates, Inc. – IRA due to separation of service on 8/31/2015; \$650,342.51	650,342.51
4647	Alejandro Maya	Refund of contributions as a result of separation of employment on 8/19/2015; \$1,545.67	1,545.67
4648	MLPF&S - IRA FBO Michael B. Gardner	Lump sum distribution of 95% of Fund Rate DROP account via trustee-to-trustee transfer to MLPF&S – IRA due to separation of service on 5/29/15; \$422,406.53	422,406.53
4649	Carl F. Tuttle	Service-incurred disability retirement effective 9/22/15; pro rata amount for September 22-30; \$1,594.65; benefit due 10/1/15; \$5,315.49, Total \$6,910.14	6,910.14
4650	Economic Computers	Inv No. 1754, dated 8/10/15, on-site service, Xerox Workcentre installation; \$159.90	159.90
4651	Florida U.C. Fund Xerox Corporation Marcum, LLP	Reemployment taxes quarter ending 9/30/15; \$1,052.87 Inv No. 081448714, September Lease; \$172.94; excess print charges; \$0.94, Total \$173.88 Inv No. 10586272, first progress audit billing for 9/30/15; \$4,995.00	6,221.75
4652	Bank of America	Glenda Rowley: Board meeting expense; \$8.99 Debbie Tocarchick: Board meeting expense, \$60.29; Educational expense (FPPTA Fall School), \$54.58; Educational expense (CEBS), \$235.34; (3) Internal hard drive cartridges, \$351.96, Total: \$702.17 Paul O’Connell: Educational expense (FPPTA Fall School); \$4.65; Business lunches, \$208.90, Total \$213.55 Sharra Aaronian: Educational Expense (FPPTA Fall School); \$55.25 Vincent Femia: Educational Expense (FPPTA Fall School); \$35.28 Jorge Rossi: Educational Expense (FPPTA Fall School); \$31.50	1,046.74
4653	Paul O’Connell Debra Tocarchick Jorge Rossi Vincent Femia	FPPTA Trustees School expense reimbursement; \$149.62 FPPTA Trustees School expense reimbursement; \$129.55 FPPTA Trustees School expense reimbursement; \$146.83 FPPTA Trustees School expense reimbursement; \$69.63	495.63
4654	Scott T. Ambrose	DROP loan net amount to Scott Ambrose; \$29,795.00 Documentary stamps for Scott Ambrose’s DROP loan; \$105.00 Loan processing fee for Scott Ambrose; \$100.00	30,000.00

REGULAR MEETING – OCTOBER 19, 2015

ITEM NO. 6 - WARRANT NOS. 4646 THROUGH 4655

Ratified and Approved on 10/19/2015

4655	Standish Mellon Center Coast Capital Sands Capital Renaissance	Investment mgr fees qtr ended 9/30/15; \$19,475.22 Investment mgr fees qtr ended 9/30/15; \$10,492.21 Investment mgr fees qtr ended 9/30/15; \$39,325.95 Investment mgr fees qtr ended 9/30/15; \$24,588.50	93,881.88
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