

POMPANO BEACH POLICE & FIREFIGHTERS' RETIREMENT SYSTEM

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

**BOARD OF TRUSTEES MINUTES
REGULAR MEETING
MARCH 21, 2016**

The Board of Trustees convened at the Pompano Beach Police and Firefighters' Pension Office, Pompano Beach, Florida. The Vice-Chairman called the meeting to order at 3:00 PM.

PRESENT: Vice-Chairman Richard Samolewicz
Trustee Sharra Aaronian
Trustee Daniel Christophers
Trustee Patrick Fletcher (arrived at 3:17pm)
Trustee David Hall
Trustee Peter McGinnis (arrived at 3:17pm)
Trustee Jorge Rossi

ABSENT: Chairman Paul O'Connell
Trustee Vincent Femia

ALSO PRESENT: Robert A. Sugarman, Esq., Board Attorney
Debra Tocarchick, Executive Director
Amanda Cintron, Deputy Director
T.J. Loew, Graystone Consulting (via telephone)

VISITORS: Neil Weidman, Secretary/ Treasurer IAFF
Diana Sandell, Wife of Richard Sandell
Jacque and Brian Fitzpatrick, Sister of Richard Sandell
Mark Booth, Esq. Rogers, Morris & Ziegler, LLP
Andrea Levine, Police Member

AUDIENCE TO BE HEARD

Mark Booth, attorney for Lisa Sandell, deferred his questions until Sugarman & Susskind's Legal Report.

APPROVAL OF AGENDA

MOTION: To approve the agenda for March 21, 2016, as amended to include an additional DROP Money Market Fund Search Report from Graystone Consulting. PASSED 5-0.

APPROVAL OF MINUTES

MOTION: To waive the reading of the minutes of the Regular Board meeting on February 16, 2016, and to approve same as submitted. PASSED 5-0.

	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
Samolewicz			X	
Aaronian			X	
Christophers			X	
Hall	X		X	
Rossi		X	X	
Samolewicz			X	
Aaronian			X	
Christophers			X	
Hall		X	X	
Rossi	X		X	

Board of Trustees Minutes Page Two	March 21, 2016	TRUSTEES	M	S	Y	N
<u>APPROVAL OF RETIREMENT APPLICATIONS</u>						
<p>MOTION: To approve the Normal Retirement Application from Deputy Sheriff Timothy Bush effective April 18, 2016; and to approve the Normal Retirement Application from Captain Edward Grant effective April 25, 2016. PASSED 5-0.</p>	<p>Samolewicz Aaronian Christophers Hall Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X</p>	<p>X X X X</p>	
<u>APPROVAL OF SURVIVOR BENEFITS</u>						
<p>MOTION: To approve the application for Survivor Benefits from Rebecca Suarez, beneficiary of retiree Humberto R. Suarez, deceased February 27, 2016. PASSED 5-0.</p>	<p>Samolewicz Aaronian Christophers Hall Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X</p>	<p>X X X X</p>	
<u>RATIFICATION AND APPROVAL OF WARRANTS</u>						
<p>MOTION: To ratify and approve payments of benefits and expenses as set for on Warrants No. 4692, \$200.00; 4693, \$5,733.88; 4694, \$9,609.50; 4695, \$375.04; 4696, \$1,569.78; 4697, \$5,000.00; 4698, \$3,759.30. PASSED 5-0.</p>	<p>Samolewicz Aaronian Christophers Hall Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X</p>	<p>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 DROP Performance Report as of December 31, 2015 was submitted by Graystone Consulting. The Columbia Small Cap Value Fund met replacement criteria under the DROP Investment Policy Statement.</p>						
<p>MOTION: To approve the December 31, 2015 DROP Performance Report as submitted by Graystone Consulting. PASSED 5-0.</p>	<p>Samolewicz Aaronian Christophers Hall Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X</p>	<p>X X X X</p>	
<p>The Board reviewed the Small Cap Value Fund Search Report submitted by Graystone Consulting.</p>						
<p>MOTION: To remove the Columbia Small Cap Value Fund IZ from the DROP Fund investment line-up and replace it with the Northern Small Cap Value Fund as recommended by Graystone Consulting. PASSED 5-0.</p>	<p>Samolewicz Aaronian Christophers Hall Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X</p>	<p>X X X X</p>	
<p>The Executive Director reported that Alerus informed her on Friday before the meeting that Federated Capital requested to have the Federated Capital Pres IP Fund (the current DROP money market fund) removed from the investment line-up. Federated indicated to Alerus that the stable value fund was not appropriate to be included in a defined benefit plan due to concerns that any large movements by the Plan sponsor would adversely affect the strategy.</p>						

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<p>T.J. Loew of Graystone Consulting was contacted via telephone to discuss the DROP Search Report for a Money Market Fund replacement. By way of background, Mr. Loew added that Federated Capital's regulations precluded them from being included in a defined benefit plan, and it was an oversight that they were ever included as an option.</p> <p>Mr. Loew profiled two alternative money market funds, Fidelity Government Cash Reserve and the Vanguard Treasury Money Market Investor, remarking that both funds have had similar returns over the short-term. Over the 10-year longer-term, there is a 25% increase in basis point return for Fidelity. Neither fund has ever fallen below \$1 NAV even in the lowest points of the market. Graystone recommended Fidelity Government Cash Reserve Fund for a slightly higher expected return with only a slightly higher risk.</p>						
<p>MOTION: To remove the Federated Capital Pres from DROP Fund investment line-up and replace it with the Fidelity Government Cash Reserves Fund as recommended by Graystone Consulting. PASSED 7-0.</p>	<p>Samolewicz Aaronian Christophers Fletcher Hall McGinnis Rossi</p>	<p>X</p>		<p>X X X X X X</p>	<p>X X X X X X</p>	
<p>The Executive Director reported in response to the Board's direction she had polled other Plan Administrators and gathered information regarding the cost of the Crime Policy carried by those Plans. An additional quote was received just prior to the start of meeting by the insurance agent; however, the agent has been unable to match the lower cost policy that at least one other Board had for a similar \$500,000 Crime Policy. The Executive Director requested more time to contact another agent to see if a lower quote could be obtained. Sugarman & Susskind recommended the Board authorize the Chairman or Vice-Chairman to approve a new policy once an acceptable quote is received.</p>						
<p>MOTION: To authorize the Chairman or Vice-Chairman to approve the purchase of a Crime Policy at the lowest possible cost as recommended by Sugarman & Susskind. PASSED 7-0.</p>	<p>Samolewicz Aaronian Christophers Fletcher Hall McGinnis Rossi</p>	<p>X</p>		<p>X X X X X X</p>	<p>X X X X X X</p>	
<p><u>SUGARMAN & SUSSKIND, PA LEGAL REPORT</u></p>						
<p>Mr. Sugarman acknowledged the family members of Richard Sandell and expressed his condolences on their loss.</p>						
<p>Mr. Sugarman advised the Board that a decision will have to be made regarding who receives the pre-retirement death benefit due on behalf of the death of Captain Sandell. The benefit is payable depending on how long the member worked and how the member died. In order to advise the Board in this regard, Sugarman & Susskind needs to gather more facts and perform more research on the law due to certain complications.</p>						

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<p>One of the missing facts yet to be determined is whether the death might be service-connected. Sugarman & Susskind is still inquiring with individuals who have access to Mr. Sandell's medical records to make this determination. Once this determination is made, they can proceed to deal with the facts and the law.</p> <p>The Plan provides that a pre-retirement death benefit is payable to the beneficiary of record. Mr. Sandell's beneficiary is listed as "Rip Jason Finst In Trust for Lauren Marie Sandell". One of the missing facts is that a formal trust document has not been located and may not exist. Sugarman & Susskind is currently researching the legal consequences of the absence of a formal trust document. One issue they are exploring is whether the words "In Trust For" created a trust under the law in which Rip Jason Finst is the trustee and would be governed by the Florida trust law.</p> <p>This is a complicated legal issue, and the main goal is to determine who the legal beneficiary is, and what Mr. Sandell's intent was. The beneficiary forms indicate his intent was that his pension be left to Lauren Marie Sandell. Additionally, his marriage settlement agreement stipulated that the pension benefit was security for child support being paid to his former wife for the care of Lauren Marie Sandell. In this case, the named beneficiary is a minor and she is not able to collect the money prior to attaining age 18 or make decisions regarding distribution options, so the question continues as to who makes the benefit election choice for the minor child. It appears that Mr. Sandell's intent was that Rip Jason Finst make these decisions; however, Sugarman & Susskind will continue to look into the legal and factual aspects of the situation.</p> <p>To date, no one has claimed the pre-retirement death benefit. Once Sugarman & Susskind precludes any possibility of a service connected death based upon the facts made available to the law firm and confirms the existence or absence of a formal trust document, they will issue a legal opinion memorandum in the matter to be shared with the interested parties. In the event that there are competing claims for the benefit that cannot be resolved, Sugarman and Susskind will likely recommend that the Board file an interpleader action in order to prevent double payment. This is a legal proceeding whereby the Court gives the Board an Order of Interpleader releasing it and the competing parties plead their case for the Court to decide. Sugarman & Susskind cautioned that a legal battle can result in costly legal fees for all parties. Any legal fees arising from interpleader case would be outside Sugarman & Susskind's retainer, and the scope of the fees cannot be known until all parties make their claims.</p> <p>The Executive Director informed the Board that staff performed a file review and identified 17 members who had named a trust as a beneficiary without a copy of the formal trust agreement. Sugarman & Susskind recommended that all members be contacted and informed that they would either need to provide a copy of a trust document or change their election. The Executive Director requested that the Board adopt a policy in this regard and discussion was deferred to the Executive Director's Report.</p>						

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<p>Attorney Mark Booth informed the Board that his interpretation of the Designation of Beneficiary Form is that the benefit goes to the named beneficiary, Lauren Marie Sandell, particularly in light of the marital settlement agreement. Mr. Booth requested a copy of the Plan Code of Ordinances and a benefit claim Form.</p> <p>The matter will come back to the Board at such time as more information becomes available or competing claim forms are received.</p> <p>Sugarman & Susskind presented their response to the memorandum of law submitted by attorney Ron Cohen in which they opined that the standard of proof in a forfeiture hearing is "clear and convincing" rather than "preponderance of the evidence". Sugarman & Susskind explained that lawyers commonly advocate their claims in this manner.</p> <p>Sugarman & Susskind reported that there has been no response to the demand for reimbursement of overpaid benefits of over \$40,000 sent to David Benjamin as a result of the forfeiture ruling. The Board has the option of either taking no action, or can elect to sue to seek a judgment that would be enforceable for 20 years. If the member ever comes into money in the next 20 years, it could be attached. This excludes jointly owned assets, his home, social security payments, among other things. The cost to pursue the judgment is approximately \$2,000.</p> <p>MOTION: To authorize Sugarman & Susskind to pursue a default judgment again David Benjamin in the amount of \$41,020.31 for overpaid benefits that were forfeited by the Board of Trustees on January 19, 2016. PASSED 5-1 (Trustee McGinnis was out of the room).</p> <p>The Trustees discussed their fiduciary duty to the members to pursue the return of the monies with the likelihood of the money being repaid. After a judgment is entered, an asset discovery deposition could be performed periodically at a cost of approximately \$2,000 each time to determine if Mr. Benjamin has the assets to satisfy the judgment.</p> <p>Sugarman & Susskind reported on the newly issued IRS Normal Retirement Age Regulations. The regulations permit employees who have reached Normal Retirement Age according to the IRS Safe Harbor provisions for public safety workers to continue to work and collect a pension. Sugarman & Susskind is reviewing each of their clients plan by plan and will be providing a plan-specific opinion in writing. Plan amendments may be required but this is viewed as positive information for the Plan in connection with the BSO/FRS members' issue.</p> <p>Sugarman & Susskind updated the Board with regard to the recent question raised by a member regarding the taxability of their disability benefits from the Florida Retirement System. The Florida State Fraternal Order of Police reported that FRS restored the tax exempt status of two disability members and reversed their rule change.</p>	<p>Samolewicz Aaronian Christophers Fletcher Hall Rossi</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>

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<p>The Formal Hearing on the Board's Order Denying Disability Benefit Application of Adam Burns is scheduled for April 20, 2016, at 9:00 AM. The Order specifically denied the disability benefit application on the threshold question of whether he is eligible to apply for a disability benefit since he is collecting an early retirement benefit.</p> <p>The Florida Financial Disclosure Form-1 is due by July 1. Trustees are encouraged to submit only the filing receipt to the Pension Office to avoid any claim that forms were not received. The Executive Director informed the Board that staff monitors the state website to ensure Trustees' filings are recorded.</p> <p>The DOR School is May 16 - 18, in Tallahassee. Sugarman & Susskind will be presenting on three separate topics and is seeking volunteers for a mock-trustee meeting.</p>							
<p><u>COMMITTEE REPORTS</u></p> <p>No Committee Reports were rendered.</p>							
<p><u>EXECUTIVE DIRECTOR'S REPORT</u></p> <ul style="list-style-type: none"> ➤ The Executive Director signed a Notification of Benefits Form for Jeffrey Valerga. ➤ A slip and fall claim dating back to 2012 when the Board owned the building was settled by the insurance company for \$2,500. ➤ Payment was received by Grover Corlew for the three bronze memorial plaques. The plaques are not yet installed. ➤ Staff and the IT Consultant participated in three on-site vendor demonstrations for a new Pension Administration System. Staff continues to review and research the issues and should be ready to make a recommendation at the April meeting. <p>The Board returned to the discussion of naming a trust as a beneficiary. The Executive Director recommended that any designation of a trust as a beneficiary must be accompanied by a copy of the trust document. Sugarman & Susskind recommended that the trust document be reviewed by them – this is covered by their retainer. Should the Board elect to adopt a new policy, the beneficiary forms will be updated and a communication will be sent to members and put in the newsletter.</p>							
<p>MOTION: To adopt a policy to require any beneficiary designation naming a trust as a beneficiary be accompanied by a copy of the trust document. The member may redact from the copy of the trust personal information not related to the Retirement System benefit, such as bequests of property to others than the Retirement System beneficiary and information that is confidential under Chapter 119, Florida Statutes. PASSED 7–0.</p>		<p>Samolewicz Aaronian Christophers 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>	

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<p>Mr. Sugarman also advised that if a member updates his Trust Agreement, he should supply the amendment to the Pension Office.</p> <p>MOTION: To adjourn the March 21, 2016 meeting at 4:15 PM. PASSED 7-0.</p> <p>Respectfully submitted,</p> <p></p> <p>Debra Tocarchick, Executive Director</p> <p>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</p>	<p>Samolewicz Aaronian Christophers Fletcher Hall McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X</p>		

REGULAR MEETING – MARCH 21, 2016

ITEM NO. 7 - WARRANT NOS. 4692 THROUGH 4698

Ratified and Approved on 03/21/2016

WARRANT NO.	PAYABLE TO	DESCRIPTION	AMOUNT
4692	Emerald Society of Fort Lauderdale	Ad Journal – Full Page; \$200.00	200.00
4693	James H. Rudy	Normal Retirement benefit commencing 5/1/2016 as a result of reaching end of DROP period on 4/30/2016; \$5,733.88	5,733.88
4694	Xerox Corporation City of Pompano Beach Economic Computers Nyhart Company	Inv No. 083522631, February lease; \$172.94; excess print charges; \$18.11, Total \$191.05 2015 Supplement S-64, and 2016 S-65, Code of Ordinances; \$18.45 Annual maintenance contract for IT services; \$2,900.00 Inv No. 0119343, 10/1/15 actuarial valuation, final bill; \$6,500.00	9,609.50
4695	Bank of America	Amanda Cintron: Telephone/Internet, \$177.45; meeting supplies \$28.30; office supplies, \$131.09, Total: \$336.84 Richard Samolewicz: FPPTA Winter Trustees School expense; \$38.20	375.04
4696	Alerus Retirement Solutions US Postal Service Office Depot Economic Computers	Fund Rate administrative and processing fee for quarter ended 12/31/15; \$825.00 Postage; \$200.00 Inv No. 829817157001, office supplies; \$25.10 Inv 2101, 3/10/16, PAS vendor presentation; \$159.90, Inv 2116, 3/18/16, PAS vendor presentation; \$359.78, Total \$519.68	1,569.78
4697	Patrice Delaney	Change in annual installments payments from DROP account commencing 4/1/16; \$5,000.00	5,000.00
4698	Rebecca Suarez	Survivor benefits commencing 3/1/16 under 100% joint and survivor option to designated beneficiary of recipient Humberto Suarez who died 2/27/16; \$3,759.30	3,759.30