

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

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

**BOARD OF TRUSTEES MINUTES  
REGULAR MEETING  
MARCH 15, 2017**

The Board of Trustees convened at the Emma Lou Olson Civic Center, 1801 NE 6<sup>th</sup> St, Pompano Beach, Florida. The Chairman called the meeting to order at 9:12 AM.

**PRESENT:** Chairman Paul O'Connell  
Vice-Chairman Richard Samolewicz  
Trustee Sharra Aaronian  
Trustee Daniel Christophers  
Trustee Robert Drago  
Trustee Vincent Femia  
Trustee Peter McGinnis  
Trustee Jorge Rossi

**ABSENT:** Trustee David Hall

**ALSO PRESENT:** Robert A. Sugarman, Esq., Board Attorney  
Dustin Watkins, Esq. Sugarman & Susskind  
Debra Tocarchick, Executive Director  
Gregg Rossman, Esq., Special Counsel  
Ron Cohen, Esq., Special Counsel  
Jeff Poole, Police Member  
Mark Seiden, Expert Witness  
Terri Flicek Hutchinson, Court Reporter

**VISITORS:** Patrick Fletcher, Police Member  
Andrea Levine, Police Member  
Pedro Cordero, Police Member  
Members of the Public and Media

The Chairman noted that Trustee Hall was absent due to a family medical issue. Attorneys Cohen and Rossman waived any objection to not having a full board present and agreed to proceed.

**AUDIENCE TO BE HEARD**

Seeing no one from the public who wished to speak, the Chairman moved directly into agenda item #7.

**JEFF POOLE FORFEITURE HEARING**

Mr. Sugarman announced that this is a formal forfeiture hearing relating to former police member, Jeff Poole. Mr. Poole is represented by Mr. Ron Cohen of Rice, Pugatch, Robinson, Storfer & Cohen, PLLC, who will present the case against forfeiture of Mr. Poole's pension benefits. Mr. Gregg Rossman of Gregg Rossman, PA, will act as the advocate for forfeiture and has the burden of proof to present a case for forfeiture of Mr. Poole's pension benefits.

				<b>V O T E D</b>	<b>V O T E D</b>
			<b>M O T I O N</b>	<b>S E C O N D</b>	<b>Y E S</b>
					<b>N O</b>

<b>Board of Trustees Minutes</b> <b>Page Two</b>	<b>March 15, 2017</b>	<b>TRUSTEES</b>	<b>M</b>	<b>S</b>	<b>Y</b>	<b>N</b>
<p>Sugarman &amp; Susskind will act as an advisor to guide the Board through the proceedings.</p> <p>Mr. Sugarman advised the Board that the formal hearing will be conducted de novo, or “as new”, and the Trustees should give no weight or consideration to any preliminary proceedings concerning forfeiture of Mr. Poole’s benefit before today’s hearing. The Board was informed of the nature of the proceedings that will take place during the course of the hearing.</p> <p>Mr. Sugarman advised the Board that its decision should be based solely on a preponderance of the evidence. The decision must be based on substantial and competent evidence that answers the questions: 1) What did Mr. Poole do; 2) Why did Mr. Poole do it; and 3) Is what Mr. Poole did, and why he did it, grounds for forfeiture of his pension benefit as a specified offense under the forfeiture statute?</p> <p>Mr. Rossman explained that the lawyers in the case agreed to stipulate to the authenticity of the documents that are part of the Board’s official record. Mr. Cohen acknowledged his agreement in moving to have them admitted as authentic. The Chairman accepted the stipulation to the authenticity of the records as submitted and received them into evidence.</p> <p>Mr. Cohen moved to limit any evidence of any other alleged similar facts or similar wrongs committed by Mr. Poole. Mr. Cohen cited the Williams Rule and asserted that any similar fact or similar wrongs would be highly prejudicial, and its prejudicial effect would outweigh its probative value. Mr. Cohen indicated that Mr. Rossman wants to bring into evidence an entirely separate incident that arose on September 23, 2009 for which Mr. Poole was never charged or convicted. Mr. Cohen argued that this information is not relevant and presented his argument for why it should not be presented.</p> <p>Mr. Rossman argued that the evidence does not have to be similar at all unless one is trying to prove the identity of the offender and cited relevant case law. Mr. Rossman then presented his argument for why the evidence is relevant to provide a common scheme or intent.</p> <p>Mr. Sugarman recommended that the Chairman defer a ruling on the motion until the Board sees how the case develops. This is an administrative hearing with more relaxed rules of evidence than a formal trial in court. The burden on special counsel, should he choose to present this evidence, is to show that it answers one of the three questions. If this other incident or event can be tied to the incident or event for which Mr. Poole was convicted, then it can be considered. If it cannot be tied in, than it should be disregarded.</p> <p>Mr. Cohen reiterated his position that a preponderance of the evidence standard is incorrect and that it must be clear and convincing evidence. Mr. Rossman and Mr. Sugarman reiterated their positions that a preponderance of the evidence is the appropriate standard.</p>						

<p><b>Board of Trustees Minutes</b> <b>Page Three</b></p> <p style="text-align: right;"><b>March 15, 2017</b></p>	<b>TRUSTEES</b>	<b>M</b>	<b>S</b>	<b>Y</b>	<b>N</b>
<p>After the attorneys' opening statements, Mr. Poole swore an oath and answered questions from Mr. Rossman and then from Mr. Cohen on cross-examination. The Board of Trustees was given the opportunity to ask Mr. Poole questions. During the proceedings, Mr. Cohen called an expert witness in police procedure to offer his opinion in the case. At the conclusion of the testimony, the Board of Trustees was given the opportunity to ask questions of the witness.</p>					
<p>Prior to entering into closing arguments, Mr. Sugarman expressed concern that with eight out of nine Trustees present, a tie vote of 4-4 would require the entire forfeiture hearing to be repeated at a future date with a full Board present.</p>					
<p>Mr. Sugarman proposed to the parties for consideration that the hearing be postponed until such time as the Board can obtain a full transcript of the day's proceedings and provide it to Trustee Hall to read along with the full hearing record. The Board could then reconvene for closing arguments with a full Board. Alternately, the parties can agree to proceed today with eight Trustees present. Mr. Rossman deferred to Mr. Cohen's preference. After conferring privately with his client, Mr. Cohen agreed to proceed with the eight Trustees present.</p>					
<p>Both attorneys then proceeded to present their closing arguments. Mr. Sugarman asked the attorneys to address in their rebuttals two questions: 1) what was Mr. Poole's intent when he made the arrest on June 29, 2009 that resulted in his conviction, and what in the record supports the answer; and 2) what profit, gain or advantage did Mr. Poole receive or try to receive for himself or someone else - and if he did receive a profit, gain or advantage for himself or someone else - what was it and when did he receive it. At the conclusion of the proceedings the Board of Trustees was given the opportunity to ask questions of the attorneys.</p>					
<p>The entire proceedings are documented in the full hearing transcript.</p>					
<p><b>MOTION:</b> To deny the forfeiture of the pension benefit of Jeff Poole. FAILED 0-8 IN A ROLL CALL VOTE.</p>	<p>O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi</p>		<p>X</p>		<p>X X X X X X X</p>
<p>The Board of Trustees deliberated during discussion on the motion.</p>		<p>X</p>			
<p><b>MOTION:</b> To approve the forfeiture of the pension benefit of Jeff Poole. PASSED 8-0 IN A ROLL CALL VOTE.</p>	<p>O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	

<p><b>Board of Trustees Minutes</b> <b>Page Four</b></p> <p style="text-align: right;"><b>March 15, 2017</b></p>	<b>TRUSTEES</b>	<b>M</b>	<b>S</b>	<b>Y</b>	<b>N</b>
<p>The deadline for Mr. Rossman to prepare a proposed order setting forth findings of fact and conclusions of law to be provided to Mr. Cohen for review is May 10. The deadline for the final proposed order to be provided to the Board is June 10. If the attorneys cannot agree on the language of the proposed order, then it will be drafted by Sugarman &amp; Susskind. The Board agreed to order the full hearing transcript. The time to appeal by seeking judicial review will not begin until the final order is approved by the Board, signed by the Chairman, and provided to Mr. Poole's lawyer.</p>					
<p>After a short recess the Board returned to the remaining agenda items.</p>					
<p><u>APPROVAL OF AGENDA</u></p>					
<p><b>MOTION:</b> To approve the March 15, 2017 agenda as presented. PASSED 8-0.</p>	<p>O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	
<p><u>APPROVAL OF MINUTES</u></p>					
<p><b>MOTION:</b> To waive the reading of the minutes of the Investment Committee meeting and regular Board Meeting on February 21, 2017, and to approve same as submitted. PASSED 8-0.</p>	<p>O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	
<p><u>APPROVAL OF DROP LOAN APPLICATONS</u></p>					
<p><b>MOTION:</b> To approve the DROP loan applications from David W. Smith and John A. Stabile. PASSED 8-0.</p>	<p>O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	
<p><u>RATIFICATION AND APPROVAL OF WARRANTS</u></p>					
<p><b>MOTION:</b> To ratify and approve payments of benefits and expenses as set forth on Warrant Nos. 4830, \$650.00; No. 4831, \$50,000.00; No. 4832, \$50,000.00; No. 4833, \$6,643.52; No. 4834, \$7,195.16; No. 4835, \$319.27; No. 4836, \$500.00; No. 4837, \$12,784.00. PASSED 8-0.</p>	<p>O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi</p>	<p>X</p>	<p>X</p>	<p>X X X X X X X</p>	

Board of Trustees Minutes Page Five	March 15, 2017	TRUSTEES	M	S	Y	N
The Board deferred the Legal Report to the end of the agenda.						
<u>ADMINISTRATIVE AND MISCELLANEOUS ISSUES</u>						
Investment Committee Chairman Aaronian explained that the DROP Mutual Fund Search Report was just received from the Investment Consultant last week so the Investment Committee deferred the report to today's meeting for full Board discussion. The Board reviewed the replacement firms identified in the report and made a selection based on the firms with the best overall performance and risk characteristics.						
<b>MOTION:</b> Based upon Graystone's recommendation, to remove the Mainstay Large Cap Growth R1 fund from the DROP Fund investment line-up and replace it with the AB Large Cap Growth A fund as recommended by Graystone Consulting. PASSED 8-0.	O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi	X	X		X X X X X X X	
<b>MOTION:</b> Based upon Graystone's recommendation, to remove the Goldman Sachs Growth Opportunities A fund from the DROP Fund investment line-up and replace it with the Eagle Mid Cap Growth R5 fund as recommended by Graystone Consulting. PASSED 8-0.	O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi	X		X	X X X X X X X	
The Board agreed to authorize any interested Trustee to attend the OPAL Public Funds Summit East Conference on July 24-26, 2017 in Newport, RI.						
<b>MOTION:</b> To authorize attendance at the Public Funds Summit East. PASSED 8-0.	O'Connell Samolewicz Aaronian Christophers Drago Femia McGinnis Rossi	X	X		X X X X X X X	
Trustee Samolewicz reported to the Board that due to a cancelation of an attendee approved for FPPTA's NYSE program, he was selected by lottery as the replacement attendee. Trustee Samolewicz discussed the benefits of the program and requested that the Board authorize his attendance on March 28 – April 1, 2017 in New York.						
Trustees who have completed their CPPT certification were encouraged to attend this program if the opportunity presents.						

Board of Trustees Minutes Page Six	March 15, 2017	TRUSTEES	M	S	Y	N
<p><b>MOTION:</b> To authorize Trustee Samolewicz to attend the FPPTA NYSE Program on March 28 – April 1, 2017 in New York. PASSED 8-0.</p>					X	
<p><u>COMMITTEE REPORTS</u></p>					X	
<p>Investment Committee Chairman Aaronian informed the Board that the Committee did not vote the proxy ballot on the Invesco Small Cap Growth Fund-Class A on the advice of Robbins Geller Rudman &amp; Dowd and Graystone Consulting.</p>					X	
<p>The Trustees did not feel that they had sufficient knowledge and expertise on the issues to vote the proxy ballot. Robbins Geller offered its opinion that it doesn't seem feasible for the Trustees to vote on each of the proxies for the various options in the DROP self-directed investment platform. Without any expertise, the default is to not vote on the proxy requests for the self-directed platform. The Investment Consultant concurred in this default position.</p>					X	
<p><b>MOTION:</b> To adopt a default policy to not vote DROP mutual fund proxy ballots unless the Board has specific knowledge of the matter as recommended by Robbins Geller Rudman &amp; Dowd. PASSED 8-0.</p>					X	
<p>No other Committee Reports were rendered.</p>					X	
<p><u>EXECUTIVE DIRECTOR'S REPORT</u></p>					X	
<p>The Annual Report was electronically submitted to the Division of Retirement on March 8.</p>					X	
<p>The Executive Director reported that the Deputy Director submitted a doctor's note stating she is not released to return to work until April 28. Since the Deputy Director's FMLA authorized leave expires on April 16, and she does not have enough accrued vacation/sick leave time on the books to cover the two additional weeks, she has requested that she be approved for an unpaid leave of absence until April 30. The Executive Director recommended that the Board grant the request.</p>					X	
<p><b>MOTION:</b> To grant the Deputy Director's request for an authorized unpaid leave of absence from April 17 to April 30 as recommended by the Executive Director. PASSED 8-0.</p>					X	

<b>Board of Trustees Minutes</b> <b>Page Seven</b>	<b>March 15, 2017</b>	<b>TRUSTEES</b>	<b>M</b>	<b>S</b>	<b>Y</b>	<b>N</b>
<p>The Executive Director reported that FOP has replaced PBA as the bargaining agent for the BSO Lieutenants.</p> <p>The Board discussed and agreed upon the dinner venues for the upcoming Educational Symposium.</p> <p>The Executive Director reported that the absence of the Deputy Director has delayed the project timelines on the pension administration system project. The vendor has been very accommodating with regard to the slower timeline. They are currently designing the estimate program.</p> <p><u>SUGARMAN &amp; SUSSKIND, PA LEGAL REPORT</u></p> <p>Mr. Watkins reported that in response to Ms. Diana Sandell's claim for service-incurred death benefits of Captain Sandell, Sugarman &amp; Susskind requested the Court put a temporary stay on the interpleader claim while the Board resolves the issue regarding the service-incurred claim. A hearing on the motion is scheduled for April 25. The attorney for Mrs. Lisa Sandell is opposing the motion.</p> <p>The Executive Director reported that a communication and the related authorization form were sent to Mrs. Diana Sandell and her attorney. Once the documents requested are received, staff will collect the relevant medical and employment records and work with counsel to set the formal hearing date on Ms. Sandell's application for service-incurred death benefits.</p> <p>Mr. Sugarman reported that his firm will prepare a procedure for the Board's consideration at the next meeting that will give it the option on a case by case basis to refer forfeiture cases to the state Administrative Law Office to decide on its behalf. This is a division of the state government that retains professional administrative law judges who hold hearings, evaluate evidence and produce findings of fact and proposed conclusions of law that are provided to the Board. The parties then come before the Board to argue whether the judge's findings are right or wrong.</p> <p>Mr. Sugarman then turned the discussion to the matter of the police share plan. The City adopted ordinance amendment 2017-30 on February 28 to establish the share plan.</p> <p>Before the Retirement System can credit the member share accounts and distribute the monies, there must be a plan describing the manner by which the monies will be allocated and paid out. The plan must be approved by a majority of eligible police officer members and the Florida Division of Retirement. The eligible police officer members according to the Florida Division of Retirement are the active police officers; not retirees/DROP members.</p> <p>The design of the plan should be done by majority of active police members. The four remaining actives are represented by collective bargaining units.</p>						

Board of Trustees Minutes Page Eight	March 15, 2017	TRUSTEES	M	S	Y	N
<p>Those unions may or may not have the right to bargain this issue; however, the Board will not decide this. The Board cannot favor one member or another since it represents all members equally.</p> <p>Mr. Sugarman advised the Chairman that the most the Board can do is to advise everyone of what their task is. Since the Board has to approve any changes to the ordinance that it must administer, Mr. Sugarman recommended that the Board not consider anything for approval or recommendation to the City that is not approved by the eligible members, the two unions and the City. The Board should ask for a share plan document or outline signed by seven parties (4 members, 2 unions and the City).</p> <p>A question was raised as to whether the City ordinance gives the Board of Trustees the right to answer all questions of eligibility. The answer is "yes" for the defined benefit plan created by City code. The ordinance that created the defined contribution component (share plan) says that the plan will be approved by the eligible police officer members and the Florida Division of Retirement. Once that plan is approved, the Trustees will refer to that plan to decide who is eligible for benefits. The Trustees do not have the authority to develop a share plan themselves since the ordinance relegates that duty to the active members (or their unions) subject to state approval.</p> <p>Police members Andrea Levine and Pedro Cordero addressed the Board and requested that it provide 1) an actuarial study for an eight (8) year DROP period for all current active and DROP members, 2) an actuarial study to determine the cost to lower the retirement age for the last two active members to age 45, and 3) the Board to incur the cost for an outside pension attorney if the actives encounter any problems getting the share plan finalized.</p> <p>Mr. Sugarman advised the members that in order to substitute a defined benefit for a share plan, there would have to be a repeal of the defined contribution share plan ordinance that the City just passed. If the City improves the defined benefit plan instead, the City would benefit if there is an actuarial gain and lose if there is an actuarial loss. Further, changes to the pension plan have always come from the collective bargaining process.</p> <p><b>MOTION:</b> To authorize an actuarial study to determine the cost to 1) extend the DROP period from five to eight years for current active and DROP police members; and 2) to determine the cost to reduce the normal retirement age to 45 for the last two remaining active police members. PASSED 7-0 (Trustee McGinnis was out of the room).</p> <p>During discussion the Board agreed to obtain the impact study but cautioned the members that the City may be under no obligation to bargain with them on these issues.</p>						
		O'Connell Samolewicz Aaronian Christophers Drago Femia Rossi	X	X	X X X X X X	X X X X X X



ADJOURNMENT

**MOTION:** To adjourn the March 15, 2017 meeting at 6:51 PM. PASSED 7-0 (Trustee McGinnis was out of the room).

O'Connell  
Samolewicz  
Aaronian  
Christophers  
Drago  
Femia  
Rossi

X

X

X  
X  
X  
X  
X  
X

Respectfully submitted,



Debra Tocarchick, CEBS  
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 – MARCH 15, 2017**

**ITEM NO. 6 - WARRANT NOS. 4830 THROUGH 4837**

**Ratified and Approved on 03/15/2017**

<b>WARRANT NO.</b>	<b>PAYABLE TO</b>	<b>DESCRIPTION</b>	<b>AMOUNT</b>
<b>4830</b>	Emerald Society of Fort Lauderdale	67 <sup>th</sup> Annual St. Patrick's Day Gala, 1 table; \$450.00; full page ad journal; \$200.00, <b>Total \$650.00</b>	<b>650.00</b>
<b>4831</b>	David W. Smith	DROP loan net amount to David W. Smith; <b>\$49,725.00</b> Documentary stamps for David W. Smith's DROP loan; <b>\$175.00</b> Loan processing fee for David W. Smith; <b>\$100.00</b>	<b>50,000.00</b>
<b>4832</b>	John A. Stabile	DROP loan net amount to John A. Stabile; <b>\$49,725.00</b> Documentary stamps for John A. Stabile's DROP loan; <b>\$175.00</b> Loan processing fee for John A. Stabile; <b>\$100.00</b>	<b>50,000.00</b>
<b>4833</b>	Christopher J. Mulligan	Normal retirement benefit commencing 4/1/2017 as a result of reaching end of DROP period on 3/31/2017; <b>\$6,643.52</b>	<b>6,643.52</b>
<b>4834</b>	Morgan Stanley Xerox Corporation  Alerus Financial  Sugarman & Susskind	DROP consulting fee qtr starting 1/1/2017; <b>\$3,750.00</b> Inv No. 088196299, February lease; \$172.94, excess print charges; \$19.72, Total <b>\$192.66</b> Inv No. 20174211, dated 3/8/2017, DROP fund rate administration and recordkeeping fee qtr ended 12/31/2016; <b>\$762.50</b> Inv No. 119682, Captain Sandell interpleader; <b>\$2,490.00</b>	<b>7,195.16</b>
<b>4835</b>	Bank of America	Debra Tocarchick: Telephone/Internet; \$230.29, medical records/disability; \$5.89, <b>Total \$236.18</b> Amanda Cintron: Meeting supplies; <b>\$4.49</b> Paul O'Connell: Business lunch; <b>\$78.60</b>	<b>319.27</b>
<b>4836</b>	Patrice Delaney	Change in annual installments from DROP account commencing 4/1/2017; <b>\$500.00</b>	<b>500.00</b>
<b>4837</b>	The Nyhart Company  FPPTA	Inv No. 0128167, actuarial services 2/1-2/28/2017; \$684.00, Inv No. 0128168, balance due actuarial report 10/1/2016; \$11,500.00, <b>Total \$12,184.00</b> Inv No. 17-543NYSE, 2017 CPPT NYSE Registration Fee; <b>\$600.00</b>	<b>12,784.00</b>