

December 2008



POLICE & FIREFIGHTERS' PENSION BOARD REGULAR MEETING

Pursuant to authority of Ordinance C-00-34, Article II, this regular meeting of the Police & Firefighters' Pension Board convened at 12:30 P.M., **Wednesday, December 10, 2008** in the Pension Board Conference Room, 888 S. Andrews Avenue, Suite 202, Ft. Lauderdale, Florida 33316.

PRESENT:

- Michael Dew, Chairman
- Mark Burnam, Vice Chairman
- John San Angelo, Trustee
- Romney Rogers, Secretary
- Dennis Hole, Trustee
- Ken Rudominer, Trustee
- Richard Fortunato, Trustee
- Steve Cypen, Board Attorney
- Lynn Wenguer, Administrator
- Rachel Maldonado, Assistant Pension Administrator
- Laurie DeZayas, Pension Secretary
- Michael Kinneer, Ex-Officio

ALSO PRESENT:

- Bill Paton, Retirees' Assoc.
- Fuzzy Larkin, Retirees' Assoc.
- Jack Chew, Retirees' Assoc.
- Don Muller, Retirees' Assoc.
- Rick Schulze, Retirees' Assoc.
- Jeff Justinak, Assistant Chief FD
- James Eddy, Chief FD
- William (Craig) Humphrey, Firefighter
- David Carter, Firefighter
- Mitch Van Sant, Police Officer
- Kimberly Van Sant, Firefighter
- Linda Soloman-Duffey, Retirees' Assoc.
- John Herbst, City Auditor
- Mike Martin, Retirees' Assoc.

ASSET VALUE as of December 2008: **\$372,746,198**

Chairman Dew called the meeting to order at 12:30 p.m.

PRESENTATIONS: Chairman Dew recognized the service and dedication of Trustee Romney Rogers, whose term as a Trustee appointed by the City, ends 12/31/08. Mr. Rogers served five years with the Board of Trustees from 2004 through 2008 and has been a very conscientious and responsible member. He has also held the position of secretary with the Board. Mr. Dew presented Mr. Rogers with an acrylic award on behalf of the Board. Mr. Rogers shared a few words of appreciation.

Mr. Dew also presented Mr. Rogers with a plaque awarded to him from the Fraternal Order of Police Lodge 31. Union President Jack Lokeinsky regretfully could not attend due to prior commitment.

Mr. David Carter and Mr. William Humphrey represented the Firefighters' union and offered a plaque to Mr. Rogers on behalf of the IAFF Local 765.

Mr. Hole also made a personal presentation.

MINUTES: Regular Meeting, November 12, 2008. Mr. San Angelo made a motion to waive the reading of and approve the minutes, with Mr. Fortunato seconding the motion.

Ms. Wenguer pointed out that there were two drafts of the minutes, due to the third party recorder that was hired for the November meeting. The approval was for the Assistant Administrator's November minutes and those would be posted on the Web. There was a discussion about combining the methods, and which choice would be more cost effective.

With no further discussion, the Board approved the motion **UNANIMOUSLY**.

BENEFITS REVIEW:

POLICE DEPARTMENT	BENEFIT TYPE	RETIREMENT DATE	TERM DATE	FORM OF BENEFIT
Ernest Pagan	Retirement	Jan. 6, 2009	Jan. 6, 2009	Life Annuity
George Louk	DROP Retirement	Dec. 14, 2008	Dec. 13, 2013	Life Annuity
Derrick Bartlett	Vested Retirement	Dec. 26, 2008	Feb. 16, 2008	Standard

FIRE DEPARTMENT	BENEFIT TYPE	RETIREMENT DATE	TERM DATE	FORM OF BENEFIT
James Gandy	Retiree Death	May 1, 1990	Nov. 23, 2008 DOD	Benefits Payable to Susan Gandy

Mr. San Angelo made a motion to waive the reading of and approve the benefits. Mr. Rogers seconded the motion. The Board approved the motion **UNANIMOUSLY**.

INFORMAL SERVICE-INCURRED DISABILITY HEARING – Kimberly Van Sant, Firefighter. Claimed Disability: Headaches, Elevated Heart Rate. Date of injury: April 5, 2007. Date of hire: April 4, 1994. Estimated monthly disability pension: \$4,169.62. Current Status: Reserve Position w/o Pay.

Mr. Cypen explained the significance of an informal disability hearing. He stated that it was designed to expedite the distribution of benefits for "slam dunk" cases: those cases where the applicant clearly meets the three criteria of total, permanent, and service-incurred disability.

Mr. Fortunato moved to grant the disability for Ms. Van Sant. Mr. San Angelo seconded the motion Mr. Cypen suggested that the motion include wording whereby the Board found that the disability occurred more than 90 days prior to "today", that day being December 10, 2008.

Mr. Cypen also brought up that if a decision was made to award the applicant benefits, then it is the Board's responsibility to determine at that same meeting what the date of disability for the record. He clarified that the Board is not deciding the date of the occurrence of the incident, but is finding the date of the disability. According to the ordinance, the benefits will begin on the 91st day after the date of disability. The benefits cannot be paid retroactively.

Mr. Hole addressed the Board and said that in a review of Ms Van Sant's packet, he found the spouse's social security number. Ms. Wenguer apologized and said that the office had so diligently insured that the applicant's number was covered; the information on the spouse was overlooked. Mr. Hole pointed that out that addresses and phone numbers should now also be removed from the packets.

Mr. Hole also asked that Mr. Cypen explain the difference between a person receiving disability from the Plan or from receiving a 175 disability. Ms. Wenguer said that difference is explained in the Ordinance and that every applicant receives a copy for his/her reference. She stated that the Plan's disability benefits generally surpass a disability benefit under Chapter 175.

In clarifying again the issue with benefits being paid on the 91st day, Mr. Fortunato restated the motion that Mr. San Angelo seconded, saying, that he was in favor to grant the service incurred disability and find that the

disability occurred 91 days prior to the day of the December Board meeting.

Fire Chief James Eddy was sworn in by Mr. Cypen to give his testimony. Chief Eddy stated that in his judgment nothing was available for Ms. Van Sant that she was able to perform and that nothing will be offered.

With the pending motion, the Board approved Ms. Van Sant's application **UNANIMOUSLY**.

Chairman Dew addressed Ms. Van Sant, thanking her for service and lamenting over the incident that caused her medical state. He stated that even in the situation that caused her injury, she showed the kind of self-sacrificing firefighter that she was. He wished her well and that she would experience speedy and miraculous recovery. The Board also expressed their appreciation to Ms. Van Sant.

BILLS:

Stanley Holcombe submitted a bill for Me Too II activity through the period ending 10/31/08 in the amount of \$14,297.00.

Aon submitted a bill for fiduciary insurance through the period ending 11/20/09 in the amount of \$13,132.50.

The Administrator discussed Randall Stanley's letter. Mr. Fortunato made a motion to accept the bills. Mr. San Angelo seconded the motion. The Board approved the motion **UNANIMOUSLY**.

Ms. Wenguer pointed out that the Aon bill was for fiduciary liability insurance.

A motion was made by Mr. Hole to add Randall Stanley's \$5578 final bill for Me Too II activity to the bills according to Mr. Stanley's letter dated December 9, 2008. Mr. Rogers seconded the motion.

Ms Wenguer added that Ms. Bieler from Cypen & Cypen asked if the Board would approve \$1,000 for a filing fee regarding the IRS Qualification Letter. The money is payable to the U.S. Treasury. Mr. San Angelo made a motion to add this amount and Mr. Rudominer seconded it. The Board approved the motion **UNANIMOUSLY**.

Mr. San Angelo made a motion to approve all the bills including the additions made at the meeting. Mr. Hole seconded the motion. The Board **UNANIMOUSLY** approved it.

INPUT FROM ACTIVE & RETIRED POLICE OFFICERS AND FIREFIGHTERS: None.

ADMINISTRATOR'S REPORT:

7th Seat Election: The Administrator announced the vote for the 7th Seat was to occur at the December meeting. She noted that, with the exception of Mr. Hole, no one submitted his or her name for consideration.

Mr. Rogers moved to re-elect Dennis Hole for the 7th Seat of Trustees. The Board was in unanimous agreement. Chairman Dew congratulated Mr. Hole for remaining with the Board as the 7th Member.

Fiduciary Insurance: Although the bill had been approved, the Administrator articulated that she still needed Board approval for the renewal of the policy. She also made it clear that the policy did not change as well the premium for the policy remained the same. Mr. Rudominer made a motion to accept the insurance and Mr. Rogers seconded the motion. The Board approved the motion **UNANIMOUSLY**.

Letter from Asset Consulting: Jason Pulos sent a letter to the Board explaining some of the plans for rebalancing the accounts. Mr. Burnam discussed the difference between achieving the target versus just achieving the minimum.

Chairman Dew expressed concerns with putting \$4 million to Northpointe. After lengthy discussion, it was decided that the Board would ask Jason for his criteria and timetable by which he evaluates the managers. They

also wanted to determine if he has a “watch list”. The Board would like to know when evaluative discussions are occurring with the managers.

Chairman Dew highlighted achievements by two investment funds. K2 was nominated for Hedge Fund of the Year and Systematic was nominated for Large Cap Manager of the Year.

Minutes Recording: The Board agreed that they were impressed with the quality of the minutes produced by the 3rd party recorder. Mr. Cypen commented that he thought the newer version was a bit too verbatim, but he also liked the format. Based on cost analysis, it seemed more beneficial to hire Prototype on a regular basis to record meeting minutes.

Mr. San Angelo made a motion to hire the recorder starting with January 2009 meeting and add them as an expense on the yearly budget. Mr. Rogers seconded the motion. It was noted that the cost of hiring Prototype would be added under “Clerical Services” in the Budget. The Board approved the motion **UNANIMOUSLY**. **Trizetto Case:** Mr. Cypen reported that though the case was settled, there was no money awarded in this case. The Administrator showed the Trustees the affidavits under Michael Dew’s name on behalf of the Board. Mr. Dew had to sign saying that he read the settlement and understood the terms, including that the Board would not be receiving any compensation. Mr. Rogers made a motion to approve the affidavits, with Mr. San Angelo seconding the motion. The Board approved the motion **UNANIMOUSLY**.

Disability Payments: The Administrator clarified that the disability payments were long paid in arrears as opposed to the month coming because they were separate from retirements. They would then convert to retirement payments at what would have been the normal retirement date of the Member. However, due to an Ordinance change in 2002, disability payments have become permanent and therefore synonymous with disability retirements. Therefore she asked for a vote to make the disability payments on the 1st of the month for the month coming.

There was a discussion that those who are paid in arrears will receive a double-check at the time of transition in order that they would be on the right cycle. The Board asked that those who are affected by the change be notified by mail.

Mr. San Angelo moved to authorize the change in disability payment and Mr. Rogers seconded the motion. The Board approved the motion **UNANIMOUSLY**.

Non-Service Incurred Offset: The Administrator explained that Board is required to take an offset for Non-Service Incurred Disability. We currently have three members receiving such a benefit. It is required that they each submit their annual tax forms to assess whether they are receiving income which would require us to begin an offset as determined in the City Ordinance. A member cannot receive more than 75% of his/her earnings at the time of the disability.

Since disability payments are now considered retirements, the offset is potentially a lifetime offset. Mr. Hole asked if Workers’ Comp settlements are subject to the offset. Mr. Cypen stated that if the settlement is paid out prior to the retirement, then it is not subject to the offset. Mr. Hole asked Ms. Wenguer to check on the recent disability approved because that Member was to receive a settlement from Workers’ Comp.

Retirement Seminar: There was a discussion about the overall success of the seminar in September 2008. It was decided that the next seminar should be held in May 2009. The Assistant Administrator will research available dates and report back at the January meeting.

Me Too II: The Administrator reported that the computations are completed and have been sent to Finance. Therefore, monies will be available in the January 1st check. She also reported that the Cost of Payroll is not yet available.

OLD BUSINESS: City COLA for Office Staff – Mr. Hole asked if the City COLA was processed for the Pension Office staff and what was the final figure. The Administrator confirmed that it was and that it was

processed at 2.5% for each staff member. She confirmed that merit raises will be assessed at the respective annual reviews.

Summary Plan Description – Mr. Hole asked if the SPDs will be update and available in January 2009. The Administrator confirmed that they would be ready.

Division of Retirement Annual Report – Chairman Dew advised the Administrator that he wanted the Office to meet the March 15th deadline set by the Florida Division of Retirement. She responded that it was not possible based on the date the City's budget year closes and the timing of the auditor's audit. Chairman Dew advised Ms. Wenguer to contact Rachlin Cohen and see if they are able to flex their audit date.

Start Date for Mr. Cammarota's Disability - At the hearing for Mr. Cammarota where his Non-Service Incurred Disability application was approved, the Board neglected to state for the record the date his disability occurred to ensure Mr. Cammarota's benefits would start on the 91st day after that day. It was clarified by the Administrator that Mr. Cammarota's began the day of the November 2008 meeting.

NEW BUSINESS: Disability Doctors - Mr. San Angelo asked that the office no longer use Dr. Melvin Grossman. He was one of the doctors who gave Ms. Van Sant an IME. Mr. San Angelo was not pleased with the quality of his summary and felt some of his medical resources were outdated.

Division of Retirement Seminar - Mr. Hole discussed the seminar that he, the Administrator, and the Chair attended. He pointed out a discussion that occurred at the conference about disability policies and limitations for those involuntarily terminated. Mr. Hole wanted to institute a time limit and ensure that no special meetings are set for disability.

Mr. Hole moved to set a policy concerning application for both non-service and service-incurred disability retirements that no applications would be accepted after 30 days from the date of termination. Mr. Rogers seconded the motion.

David Carter asked about applications that are submitted as either service or non-service incurred, that are then changed after the process has begun. Is that considered a new application that may be outside of the 30 days? The Board clarified that under those circumstances, the application would be considered amended, not new.

Related to disability, there was a discussion about the Local 765 contract that states a person applying for disability must be on the Board's agenda 90 days prior to the possible termination date. Due to confusion over that certain language between the City and IAFF Local 765, Mr. Carter was asked if he could forward the contract to Mr. Cypen for his review and interpretation.

With no further discussion, the Board approved the motion **UNANIMOUSLY**.

Mr. Burnam left the meeting at 2:30 p.m.

"Everybody But Me" List - Chairman Dew proposed that the Board joined with the FOP and the IAFF to hire attorney Bob Klausner review the Me Too cases and provide a legal opinion as to why a group of Members are not entitled to benefits.

Mr. Hole commented that the Board should not be orchestrating the effort, as the matter seems to be a union issue. He felt it would be inappropriate for the Board to intercede in this way.

Mr. Cypen also felt that it was unnecessary to involve Mr. Klausner as he had communicated to the Administrator and the Chairman an interpretation already via email.

However, Chairman Dew still felt that he did not have a good grasp as to why this particular group is so affected. Therefore, he could not do his due diligence to provide an intelligent answer. After much discussion, Mr. Hole felt he would much rather pay the Board attorney to reconstruct an explanation on why a group of Members did not receive benefits under Me Too II.

Mr. Cypen asked that the Administrator remind him of the specific dates. Once a clear opinion is written out that is appropriate for the layperson, a copy will go to Gregg Gurdak. Mr. Carter asked that he receive a copy as well.

Chairman Dew asked that the opinion reference the direct Ordinance or contract that affected the decision and speak specifically to the applicable definition of vesting.

Mandatory DROP Distributions – Mr. Cypen answered Mr. Hole’s question on obligations to mandatory DROP distributions in the event a Member cannot be located. Mr. Cypen said we didn’t have to worry about it because our language says that a member is entitled to their money only when they ask for it. Therefore, the Plan has no obligation to open a mandatory IRA.

There being no further business brought before the Board, Mr. San Angelo made a motion to adjourn the meeting at 2:50 P.M. Mr. Rudominer seconded the motion. The Board approved the motion UNANIMOUSLY.

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