

MINUTES

POLICE OFFICERS' & FIREFIGHTERS' RETIREMENT COMMITTEE MEETING

THURSDAY - FEBRUARY 18, 2010 - 9:00 AM

PRESENT

Sgt. Leo Socorro – Chair
(Ret)Chief Linda Loizzo
Councilwoman Beth Spiegel
Councilman John Julien

ABSENT

Officer Michael Pons

ALSO PRESENT

Graystone – C.Mulfinger /M. DeGenova
Davis Hamilton - Janna Woods
HGK – M. Spillane / D. Hauck
Renaissance – Andy Temming
Sugarman & Susskind - Bob Sugarman
Bolton Partners - Tom Lowman / J. DeLisle
Shepherd, Finkelman – Jayne Goldstein
Coughlin, Stoia – Nathan Bear
Steven Gordon - Auditor
Martin Lebowitz – Pension Administrator

DEPARTMENT REPRESENTATIVES

Bill Dresback – Retired Firefighter
Darcee Siegel – City Attorney
Susan Gooding-Liburd – Finance Dir.
Lori Helton – IT

The meeting was called to order at 9:10a.m. by Sgt. Socorro and was followed by a roll call of Trustees.

I. SHEPHERD, FINKELMAN, MILLER & SHAH

Jayne Goldstein made a presentation to provide Security Monitoring for the Plan.

II. COUGHLIN, STOIA, GELLER, RUDMAN, ROBBINS

Nathan Bear made a presentation to provide Security Monitoring for the Plan

III. DAVIS HAMILTON JACKSON – DECEMBER 31, 2009 REPORT

Janna Woods reported the total DHJ Equity portfolio was valued at \$11,465,592 (including accrued interest) as of 12/31/2009, with an asset allocation of 97.85% in equities, 2.15% in cash and equivalents. DHJ Fixed Income was valued \$21,314,106 (including accrued interest)

**Police & Fire Retirement
Committee Meeting
February 18, 2010
Page 2**

as of 12/31/2009, with an asset allocation of 98.83% in bonds and 1.17% in cash and equivalents.

For the quarter ended 12/31/2009: Total fund return was 8.97%. Equities returned 7.71% compared to 7.94% for the Russell 1000 Growth. Bond fund return was 1.26% compared to .31% BC Int. Gov/Credit.

Janna Woods reviewed the following stocks that did very well, Amphenol, Walt Disney and Deere & Co. She also reviewed the stocks that did not do well, Bank of America, J.P. Morgan, Janus Group and Activision.

Plan year results: Total return for their portfolio was 45.53%. Equities returned 33.94% vs. – 37.21% for the Russell 1000 Growth. The fixed income portfolio was 11.59% vs. the BC Int. Gov/Credit return of 5.25%.

IV. HGK – DECEMBER 31, 2009 REPORT

Mickey Spillane and David Hauck reported the total HGK portfolio was valued at \$11,020,769 (including accrued interest) as of 12/31/2009, with an asset allocation of 97.83% in equities, 2.17% in cash and equivalents.

For the quarter ended 12/31/2009: Total fund return was 1.62% compared to 4.22% for the Russell 1000 Value.

Plan year results: Total return for their portfolio was 36.88% vs. 43.80% for the Russell 1000 Value.

Their top tens holding as of December 31, 2009 was, Pfizer Inc., PPL Corp., Johnson & Johnson, Chevron, Southern Co., Verizon, Oracle, Allstate, Kimberley-Clark and National Oilwell Varco.

V. RENAISSANCE – DECEMBER 31, 2009 REPORT

Andy Temming reported the total Renaissance International Growth portfolio was valued at \$2,946,255 (including accrued interest) as of 12/31/2009, with an asset allocation of 98.78% in equities, 1.22% in cash and equivalents.

For the quarter ended 12/31/2009: Total fund return was 6.47% vs. 3.74% for the BC Int. Gov/Credit.

**Police & Fire Retirement
Committee Meeting
February 18, 2010
Page 3**

Plan year results: Total return for their portfolio was 31.16% vs. 22.80% for the Russell 1000 Value.

VI. GRAYSTONE CONSULTING – DECEMBER 31, 2009 REPORT

Charlie Mulfinger and Michael DeGenova presented the performance report, indicating a total portfolio market value on 12/31/2009 of \$56,900,140 (including accrued income). This represents a net increase in value from the previous quarter of \$2,316,002. The total asset allocation was reported to be 49.87% invested in domestic equities, 9.98% invested in international, 37.45% in fixed income and 2.70% in cash and equivalents. The total fund earned 3.58% for the quarter.

For the quarter ended 12/31/2009: Davis Hamilton under-performed Russell 1000 Growth Fund 7.71% vs.7.94%. HGK under-performed Russell 1000 Value Fund 1.62% vs. 4.22%. GW Capital returned 8.27% vs. 3.62% for the Russell 2000 Value Fund. MDT returned 6.32% vs. 6.69% for the Russell 2000 Growth Fund. Renaissance returned 6.47% vs.3.74% for the MSCI AC World x US. Thornburg returned 4.22% vs.3.74% for the MSCI AC World x US. Davis Hamilton Fixed Income earned 1.26% outperformed the BC Int. Gov/Credit of .31%.

Plan year results: Total return earned for plan year was 21.67%.

Charlie Mulfinger handed to the Sgt. Socorro revised Statement of Investment Police to comply with Protecting Florida's Investment Act (PFIA) to be signed and approved.

Motion by Sgt. Leo Socorro, seconded by Councilwoman Spiegel, to add the guidelines for the Protecting Florida's Investment Act(PFIA) based on the recommendation of Graystone Consulting to start the new Investment Guidelines for the Fixed Income Fund.

Motion carried unanimously

VII. ATTORNEY'S REPORT

Bob Sugarman stated since our last meeting we successfully completed the engagement letter with Steven I. Gordon and responded to Steven Gordon's Audit Inquiry Letter if there were any claims against the fund. Bob Sugarman stated that Chief Loizzo has stated there was talk about making claims against the Fund. Does anyone take it seriously about making a claim against the Fund? If we take this seriously, then Bob Sugarman stated he would have to report it. Chief Loizzo and Sgt. Socorro stated retirees were talking about a pasted council meeting

**Police & Fire Retirement
Committee Meeting
February 18, 2010
Page 4**

were a councilperson stated pension checks would bounce and the City of North Miami Beach would go bankrupt.

Chief Loizzo asked can the City of North Miami Beach change the current Pension Plan for existing retirees. Bob Sugarman stated the City of North Miami Beach cannot change the Plan under the current state of the law in Florida. Bob Sugarman also stated the once you enter the DROP or retired your pension is locked in can not go down.

Darcee Siegel asked can you change people pension benefits prospectively. For example for the future you would accrue 2% rather than 3% a year. Bob Sugarman answered the questions as follows; yes, but you have to collectively bargain it; yes, but you can't go below the State minimum, and in our Plan the members would have to vote on this change.

Councilwoman Spiegel suggested that minutes be reviewed and approved by the Board prior to being published.

Bob Sugarman also has worked or being worked on with the Actuary the Anti-selection cost which will be discussed later by Tom Lowman and worked on the Securities Monitoring agreements with the firm that the Board had selected. Also, an education opportunity was suggested by Bob Sugarman to attend the Police & Fire State School in Tallahassee which is scheduled May 2010.

Bob Sugarman updated the Board on the Merrill Lynch Case. Bob Sugarman has requested permission to participant in a Class Action Suit against Merrill Lynch which is now owned by Bank of America. Bob Sugarman's firm will partner up with Robert Klausner and Cohen's Law Firm. The lead plaintiff will be Klausner's client Jacksonville Police & Fire Plan. The case will be filed in Jacksonville, Fl. There will be no cost to the Plan for any legal fees.

Motion by Chief Loizzo, seconded by Sgt. Socorro, to have Sugarman and Susskind to join in the class action suit against Merrill Lynch.

Motion carried unanimously.

Bob Sugarman discussed pending changes to the Plan that was discussed at our May 28, 2009 meeting. Those items were, raising the International limits to 25% in our funds and to increase the terms of our trustees from 2 years to 4 years. Bob Sugarman wrote the Ordinance based on the Boards request. These items are still pending as of this date.

Discussion about the 2 year to 4 year term and about the 5th member position on the Board. Bob Sugarman stated how someone can get off the board, for those appointed by the Mayor,

**Police & Fire Retirement
Committee Meeting
February 18, 2010
Page 5**

you can quit, you can die or you can be removed by the Major. Those appointed by the Trustees which is the 5th member can get off the board as follows, you can quit, you can die, but you cannot be removed by the people who put you there. The only person who can remove the 5th Trustee is the Governor of Florida.

**VIII. ROBERT PINSON FIREFIGHTER DEATH – BENEFICIARY ISSUE
ISSUE – Robert Pinson died on 12/4/2009 and was entitled to receive the next supplemental payment of \$4,399.35 payable in January 2010.**

He elected Option 1 which is **Life Only Annuity**: A monthly retirement benefit payable for the lifetime of the retiree. No benefits are payable to any beneficiary after the death of the retiree. His first wife Julia Pinson was the designated beneficiary however she passed away. Mr. Pinson remarried to Shirley Pinson who is alive. **Who do we pay?**

The plan states as follows:

- (b) **Failure To Designate Beneficiaries** - If a deceased participant failed to name a beneficiary in the manner above prescribed or if the beneficiary (or beneficiaries) named by a deceased participant predeceases the participant, the death benefit, if any, which may be payable under the Plan with respect to such deceased participant may be paid, in the discretion of the Retirement Committee either to:
- (i) Any one or more of the persons comprising the group consisting of the participant's spouse, the participant's descendants, the participant's parents, or the participant's heirs-at-law, and the Retirement Committee may pay the entire benefit to any member of such group or apportion such benefit among any two or more of them in such shares as the Retirement Committee, in its sole discretion, shall determine; or
 - (ii) the estate of such deceased participant; provided, however, that in any of such cases the Retirement Committee, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum.

After discussion, motion by Councilman Julien, seconded by Chief Loizzo to pay the supplemental payment of \$4,399.85 to Robert Pinson's spouse Shirley Pinson.

Motion carried unanimously.

IX. P.O. JUAN PINILLOS – BUYBACK CONCERN FROM 2007

Police Officer Juan Pinillos cancel his request to appear before the Board.

X. BOLTON PARTNERS - ACTUARY

Tom Lowman reviewed what was discussed from our last meeting on Joint and Survivor Benefit and of the Board did not want to look at people's health status. Then Tom Lowman discussed his conversation with Trish Shoemaker, Benefits Administrator, Division of Retirement. The State Law requires that any retiree in the Plan who chooses a Joint & Survivor Benefit that they be given the option to change their beneficiary twice after they retire without asking if they are in good health. The Board did not want to look at retiree's health status when someone elects to change their beneficiary. If the Board checks the retirees health status Tom Lowman stated that would have to charge all retirees for this option. Tom Lowman's proposal was when someone goes to retire and picks a Joint & Survivor option their benefit would be reduced. The Board concern from last meeting was they don't want everyone to pay for this benefit. Tom Lowman e-mailed Trish Shoemaker with those questions and Trish Shoemaker response that would be fine and meet the requirement of the State Law. This means when someone goes to retire and selects the 50 % Joint & Survivor Benefit they would get two calculations the current method and then another calculation with a reduction of 2% and a 4% reduction if you select 100% Joint & Survivor Benefit. The reduction option gives a retiree the option to change their beneficiary twice without checking someone health status. Or the retirees can choose the option that we currently have with no reduction.

There will be a letter sent to all current retirees asking them, do you want the right to change your joint annuitant in the future even if your joint annuitant dies. If they choose this option there monthly pension amount will be reduced for future payments.

Bob Sugarman stated what the current Plan language is:

- (c) **Changes of Joint Pensioner, Beneficiary or Beneficiaries** - If a participant has elected an option with a joint pensioner or beneficiary (or beneficiaries) and his or her retirement income benefits have commenced, he or she may thereafter change his or her designated joint pensioner or beneficiary (or beneficiaries). He or she may do so only in the case where the designation to be changed is one involving a joint pensioner, if the joint pensioner last previously designated by him or her is alive when he or she files with the Retirement Committee his or her request for such change. The consent of a participant's joint pensioner or beneficiary (or beneficiaries) to any such change shall not be required.

**Police & Fire Retirement
Committee Meeting
February 18, 2010
Page 7**

- (d) **Change of Joint Pensioner, Actuarial Redetermination of Income** - The Retirement Committee may request such evidence of the good health of the joint pensioner who is being removed as it may require. The amount of retirement income payable to that participant upon the designation of a new joint pensioner shall be actuarially redetermined, taking into account the age and sex of the former joint pensioner, the new joint pensioner and the participant. Each such designation will be made in writing on a form prepared by the Retirement Committee.

Bob Sugarman stated under the new State Law, you don't need the Board permission, they don't have to be alive, and you can't require a certificate of good health for them to make the change. This does not tell them what they will get paid when they make this change. The current Plan language will not change.

Bob Sugarman along with Tom Lowman will re-write the Ordinance to reflect the requirements from the State and the Ordinance will be very specific.

Susan Gooding-Liburd asked when the 10/1/2009 Valuation report would be completed. It was recommended that the Board meet on March 17, 2010 at 5:30 p.m. to review and approve the 10/1/2009 Police & Fire Retirement Plan Valuation Report.

Bob Sugarman is recommending that the Chairperson be authorized to tentatively approve the participation of the Police & Fire Board in suits that are recommended by our Securities Fraud Counsel subject to ratification of the trustees at their next board meeting.

Motion by Councilman Julien, seconded by Sgt. Socorro, to authorize the Chairperson based upon the recommendation of the Securities Fraud Counsel to approve the participation of the Board in securities fraud derivatives litigation subject to ratification by the Board at the next regular meeting.

Motion carried unanimously

XI. AUDITOR'S REPORT

Steven Gordon presented the September 30, 2009 Annual Financial Statement for the Police & Fire Retirement Plan for the City of North Miami Beach. Steven Gordon stated that the opinion is an unqualified opinion and a clean opinion so to speak and that this is what you are normally looking for when rendering an annual financial report. Bob Sugarman asked Steven Gordon to comment on condition of our books and records and the cooperation by Martin Lebowitz and the City. Steve Gordon stated that our books and records were kept properly and found very

**Police & Fire Retirement
Committee Meeting
February 18, 2010
Page 8**

few minor adjustments. He acknowledged that Martin Lebowitz was very cooperative and timely on requests by his firms' staff.

The Financial Director Susan Gooding-Liburd has acknowledged receiving the September 30, 2009 Annual Financial Statement today.

Bob Sugarman suggested that each committee member keep a copy of the Annual Financial Statement at home for at least 5 years. Because if any claims are every made against any member due to embezzlement or improperly spending the assets the Annual Financial Statement is your best defense.

Motion by Sgt. Leo Socorro, seconded by Chief Loizzo, to accept the Annual Financial Statement Audit for the fiscal year ending September 30, 2009 for the Police & Fire Retirement Plan prepared by Steven I. Gordon C.P.A.

Motion carried unanimously.

Chief Loizzo discussed the coverage of Fiduciary Liability Insurance be increased from one million to 5 million.

Bob Sugarman reviewed who is covered under the Fiduciary Liability Insurance Policy. He stated that all the trustees and the plan administrator are covered.

Bob Sugarman recommends that the amount of the insurance should be approximately 10% of the market value of the Plan.

AUTHORIZATION TO BIND COVERAGE AND PAY PREMIUM

- Fiduciary Liability Insurance: \$ 5,000,000 Coverage \$5,000 Deductible \$18,165.86 annual premium

After discussion, motion by Councilwoman Spiegel, seconded by Chief Loizzo to renew and to increase the Liability to \$5 million with U.S. Specialty Insurance Company for payment of \$18,165.86 for Fiduciary Liability Insurance for one year.

Motion carried unanimously.

XII. APPROVAL OF INVOICES

Motion by Sgt. Leo Socorro, seconded by Chief Loizzo, to pay the following invoices:

INVOICES:

Davis Hamilton Jackson – Equity Quarterly Management Fees	\$13,867.95
Davis Hamilton Jackson – Fixed Quarterly Management Fees	14,776.00
Morgan Stanley Smith Barney – Quarterly Consulting Fees	5,625.00
HGK – Quarterly Management Fees	11,008.22
GW Capital – Quarterly Management Fees	5,255.94
MDT – Quarterly Management Fees	5,837.15
Renaissance – Quarterly Management Fees	4,831.13
Thornburg - Quarterly Management Fees	4,384.45
Bolton Partners – Actuary Fees	11,805.86
Steven Gordon – Auditor	5,210.00
Sugarman & Susskind – Legal Fees	6,600.00
Salem Trust Company – Custodial Fees	7,081.96
<u>Motion carried unanimously.</u>	\$96,283.66

The next regularly scheduled quarterly Board meeting will be held on Thursday, May 20, 2010 at 9:00 a.m. There will be a special meeting on March 17, 2010 at 5:30 p.m.
Meeting was adjourned at 12:55 p.m.

Martin Lebowitz, Pension Administrator