

**MINUTES  
RETIREMENT PLAN AND TRUST FOR THE GENERAL MANAGEMENT  
EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH  
BOARD OF TRUSTEES MEETING  
WEDNESDAY, AUGUST 22, 2012**

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1. **CALL TO ORDER:** The meeting was called to order at 5:41 p.m. in North Miami Beach City Hall, 17011 NE 19<sup>th</sup> Avenue, North Miami Beach, Florida.

2. **ROLL CALL:**

**TRUSTEES PRESENT:** Chairperson Darcee Siegel  
Secretary Janette Smith  
Trustee Lyndon Bonner

**ALSO PRESENT:** Paul Shamoun, Administrator FLC  
Ronald Cohen, Plan Attorney  
Brent J. Chudachek

3. **APPROVAL OF MINUTES**

Members reviewed the minutes from the March 5, 2012 meeting.

***A motion was made by Trustee Bonner and Seconded by Secretary Smith to accept the minutes as presented. The motion passed unanimously.***

4. **RATIFICATION OF INVOICES FOR PAYMENT**

Mr. Shamoun provided the Trustees a list of invoice payments made by the plan previously approved by the Chairperson.

***A motion was made by Trustee Bonner and seconded by Secretary Smith to approve the ratification of invoices as presented. The motion passed unanimously.***

5. **RATIFICATION OF APPROVED DISTRIBUTIONS**

Mr. Shamoun provided the Trustees a list of all participants requesting distributions.

***A motion was made by Trustee Bonner and seconded by Secretary Smith to approve the distribution payments as presented. The motion passed unanimously.***

6. **INVESTMENT PERFORMANCE – Quarter Ended: June 30, 2012**

Mr. Shamoun provided a review of the investment performance through June 30, 2012. For the quarter, the investment returns were down 1.7% and for the current fiscal year the investment returns were up 12.71%. The 3 year return was around 11%, the 5 year return was 2.7% and the 10 year return was 5.3%. Mr. Shamoun said he was encouraged by the new International portfolio manager hired last

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May. They have outperformed the index by a whole percent and the previous manager was under the index by about a percent on average.

There was then a discussion on having a 2012 actuarial valuation prepared by the actuary.

***A motion was made by Secretary Smith and seconded by Trustee Bonner to have a 2012 actuarial valuation prepared by the actuary. The motion passed unanimously.***

**7. NEW BUSINESS**

a. Professional Legal Services Agreement

Chairperson Siegel presented the agreement to the Board.

***A motion was made by Trustee Bonner and seconded by Secretary Smith to approve the agreement. The motion passed unanimously.***

Chairperson Siegel then signed the agreement and Secretary Smith then signed the agreement.

b. Question from participant regarding early retirement

Mr. Shamoun brought up the question from a current member in the plan as to whether he could retire under normal retirement. He had obtained 75 points, but was not yet age 55. Mr. Shamoun said the answer was no, because he was earlier than age 55. He can retire early, but he would have the reduction. The plan parameters are specific to this plan and there is a 5% reduction from age 55.

c. Fiduciary Liability Insurance

There was a discussion on the different options offered. Mr. Cohen reminded the Trustees of importance of a waiver of recourse and let the Trustees know this can't be paid out of plan assets. Mr. Cohen said they should request the City to pay the waiver of recourse. Chairperson Siegel requested Mr. Shamoun to write the letter and send it to Mr. Cohen. The letter should then be sent back to Chairperson Siegel.

***A motion was made by Trustee Bonner and seconded by Secretary Smith to request City to pay the waiver of recourse. The motion passed unanimously.***

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Chairperson Siegel said there appeared to be 2 policies. Mr. Cohen said 1 million would be adequate based on the current plan assets. Secretary Smith asked if Travelers' rates were provided. The Trustees only saw rates provided by US Specialty Insurance Company. Mr. Cohen said the rates were reasonable and this was an appropriate expenditure and they would need the waiver of recourse and the policy should cover defense costs. Mr. Cohen recommended going ahead and purchasing the policy.

***A motion was made by Trustee Bonner to go with the 1 million dollar policy with \$2,500 deductible. There was no second, so the motion died.***

Secretary Smith wanted to see the rates for Travelers Insurance instead.

Chairperson Siegel passed the gavel to Trustee Bonner.

***A motion was made by Chairperson Siegel and seconded by Secretary Smith to go with the 5 million dollar policy with \$2,500 deductible. The motion passed unanimously.***

Trustee Bonner passed the gavel back to Chairperson Siegel.

**d. Update on Martin King's forfeiture of retirement**

Mr. Shamoun stated we processed a distribution for Martin King, whose retirement had been forfeited. 20% of the gross payment was withheld and sent to IRS. The net amount had been credited back to the pension plan. The gross amount of his employee contributions was \$56,820.36; \$11,364.07 was remitted to the IRS; the net amount of \$45,456.29 remained in the pension plan. Chairperson Siegel clarified that Mr. King was vested with the Plan and with his forfeiture, all of the contributions made on his behalf remained in the pension plan and future distributions to him would not occur. This would make the plan richer and should be indicated on the 2012 valuation. Mr. Shamoun stated that any liability that would have been paid out to him would be removed from the calculation. Chairperson Siegel asked Mr. Shamoun if this should lower the unfunded liability of the plan and Mr. Shamoun agreed.

**e. Cost study on allowing an opt out provision for 3 charter officers**

Chairperson didn't feel the cost study reflected what the Board decided to have prepared by the actuary.

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The Board intended for the 3 charter officers to be calculated out individually and they wanted to look at 1 year vesting.

Chairperson Siegel wanted to look at freezing entire plan and she then asked Mr. Cohen if, under Plan, it was permissible to carve out the 3 charter officers. She asked what the process would be to freeze plan and convert to a defined contribution plan. Mr. Cohen pulled up ordinance 2002-30, which created the Plan and discussed the process of changing the plan. There was then a discussion on what closing, freezing and terminating a pension plan meant.

Mr. Bonner said Mr. Linn was preparing an ordinance to modify the ordinance that enabled pension plan.

***A motion was made by Trustee Bonner and seconded by Secretary Smith to recommend the 3 charter officers be excluded from the Plan by ordinance. Chairperson Siegel voted no.***

Chairperson Siegel passed the gavel to Trustee Bonner.

***A motion was made by Chairperson Siegel for the management plan to be frozen and for all members to be eligible for a defined contribution plan. There was no second.***

Trustee Bonner passed the gavel to Secretary Smith.

Trustee Bonner stated he would be inclined to support Chairperson Siegel's motion if, by seconding the motion, this would not compromise his first motion. He asked to Mr. Cohen if they would compromise each other and Mr. Cohen stated he wasn't sure.

Chairperson Siegel asked Mr. Cohen if there was an individual who wasn't happy and wanted to bring an action, whether Mr. Cohen would handle the claim. Mr. Cohen stated if there was a claim on the City's action that this would be an individual claim.

Trustee Bonner withdrew his second on Chairperson's motion, so the motion died.

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Howard Lenard, a current retiree with the City of North Miami Beach, spoke of his concern with the possible changes and wants to make sure retirees' benefits are protected.

Chairperson Siegel asked Mr. Cohen what effect freezing or closing the plan would have on those members in the plan. Mr. Cohen said that if the members were already vested and plan was closed, this doesn't change future accruals. There would be no new participants and they could keep it going.

Howard Lenard stated his concerns about freezing the plan. Mr. Shamoun said that when freezing plan, no one accrues any more benefit. There would be a calculation of the retirement benefit the members would receive at retirement and the members would stop accruing.

Howard Lenard asked if there was an alternative where members could continue accruing. Mr. Shamoun said they could close the plan to new people and new hires would have a new deal. Mr. Lenard clarified that the plan would shut down for new hires and that current members could continue. Mr. Shamoun said that is an option.

Chairperson Siegel requested to see the actuary prepare a calculation for those members who were vested in the plan but not yet eligible to retire, so that when they reach 55, with whatever they had accrued, they would not lose. Chairperson Siegel would like to ask the actuary to figure out those who aren't yet vested, as though they would vest immediately upon freezing. Mr. Cohen said that is the way it should happen.

Howard Lenard wanted to make sure that it could be an alternative to allow current member to continue accruing. Mr. Shamoun said yes, this could be an alternative. Mr. Lenard didn't feel that this was being considered and felt this should be considered as well.

Chairperson Siegel asked Mr. Shamoun whether the Board should make a motion for the cost study. Mr. Shamoun said yes, and they should have it done in conjunction with the valuation process. Mr. Shamoun said the cost study should be complete in time to have a meeting in November or December.

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Secretary Smith requested to have the actuary contact one of the Board members to know exactly what they want calculated.

Mr. Shamoun would like a conference call with the Chair and actuary. Chairperson Siegel would like Mr. Cohen on the conference call as well.

Mr. Shamoun said he would make notes of what he thought the Board was requesting for the actuarial cost study, and then each Trustee could then send what they think the study should be back to Mr. Shamoun.

**f. HB 401 – Effect of Dissolution or Annulment of Marriage on Certain Designations**

Mr. Cohen discussed House Bill 401. He stated if a member has designated a spouse as their beneficiary and they are then divorced, the designation was then void. This would cover beneficiary designations made both prior to and after 7/1/2012. There were exceptions where a member could designate a former spouse as long as they were designated as a former spouse. Mr. Cohen stated the Board may want to look carefully at their current beneficiary designation form. Mr. Cohen suggested sending this notice out to the entire membership. Chairperson Siegel will forward what Bob Sugarman prepared to Mr. Cohen. Mr. Cohen stated he will take a look at it. Chairperson Siegel requested Mr. Cohen send a copy of the letter he prepared to all Trustees so they could take a look at it.

**8. REPORTS**

- a. Attorney – Mr. Cohen asked if the receivable from the 2011 actuarial valuation had been paid. Mr. Shamoun stated that most likely it was a payment made after September 30, 2011 to be applied to the 2011 fiscal year. Mr. Cohen wanted this clarified. Chairperson Siegel requested Mr. Shamoun to contact Mr. Cohen with the answer. Secretary Smith will look into this and contact Mr. Shamoun and Mr. Shamoun will then get in contact with Mr. Cohen with the answer.
- b. Chairman – No report
- c. Secretary – Secretary Smith stated she heard complaints about the meeting not being noticed. Mr. Cohen checked the website and did see it listed, but wouldn't be able to tell when it was posted. Chairperson Siegel will make sure it is posted to the web site.

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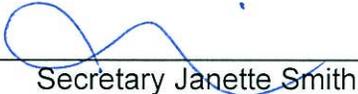
- d. Administrator – Mr. Shamoun said he took a look at the financial statement in response to Mr. Cohen's question about the receivables from the 2011 actuarial valuation for last October and there was about \$70,000 in deposits for the month of October for the previous fiscal year. 2 ½ payrolls were paid in October for September payrolls, but the check was received in his office in October, so this was a timing issue. Mr. Shamoun will check with actuary, but it appears those payments were made.

Trustee Bonner appointed Mac Serda as his designee at his departure to take his place on the Board of Trustees.

9. The next regular meeting will be set. Mr. Shamoun, will set a date that will work in with the same schedule in south Florida with our other Board Meetings for other members. The meeting will possibly be in October or November. Mr. Shamoun will reach out the Board to set a date.

**10. ADJOURNMENT:**

With no further business before the Board, the meeting adjourned at 7:38 p.m.

  
\_\_\_\_\_  
Secretary Janette Smith

2-6-13  
\_\_\_\_\_  
Date