

MINUTES
GENERAL EMPLOYEES'
RETIREMENT COMMITTEE MEETING
THURSDAY - MAY 3, 2012 - 3:30 PM

PRESENT

Vic Espinal
Larry Gordon
Lori Helton – Chair
Councilman Frantz Pierre

ALSO PRESENT

Charlie Mulfinger – Graystone Consulting
Larry Wilson – Gabriel Roeder Smith
Bob Sugarman – Sugarman & Susskind
Martin Lebowitz – Pension Administrator
Darcee Siegel – City Attorney
Richard Sticking – Attorney

ABSENT

Councilwoman Barbara Kramer

DEPARTMENT REPRESENTATIVES

Marsha Alexander
Carlos Ramirez
Susan Ritter
David Pesek
Janice Coakley
Laura Wozniak
Robert Grosswald
Terry Campbell

Lori Helton called the meeting to order at 3:38 P.M., followed by a roll call of Trustees.

1. ROLL CALL

Councilwoman Kramer is absent.

Chairperson Helton asked and received approval from the Board to take agenda item 4, regarding the "Reconsideration of DROP Interest Rate" out of order to accommodate the many employees that have attended the meeting.

4. PENSION ATTORNEY REPORT

b. RECONSIDERATION OF DROP INTEREST RATE DEDUCTION

Bob Sugarman summarized the events since the last meeting, where at the Board's initiative, the DROP interest rate was lowered for all current and future DROP participants effective April 1, 2012, from 6½% to 3%. It had been properly noticed and disseminated to the employees.

Since that time there have been three developments. The DROP members have hired an attorney Richard Sticking, who is here today and has asked to be heard; second, some of the members signed a petition and wrote to the chairperson saying that they believed they were "blind-sided" and that they did not know this was going to be considered. So we asked Martin Lebowitz to re-notice this agenda so that all the DROP participants were aware of it. The third thing is that the City Attorney proposed an ordinance changing the City Code that would reflect the change in interest rate from 6½% to 3% with an effective date. The City Attorney may want to discuss with the Board a change in the effective date.

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City Attorney Siegel stated she will bring back a new Ordinance per the Board's decision today for the May 15th, 2012 City Council meeting as a first reading. She stated that even though it was already passed on first reading on March 6th, 2012, it was pulled right before the second reading on March 20th, 2012. Since too much time has passed she'd like to bring the Ordinance back for first reading on May 15th, 2012, with a second reading on June 5th, 2012. She asked the Board to amend their prior effective date from April 1, 2012 to July 1, 2012. In her opinion, based on the documents that individuals have signed, as well as the current ordinance, that it was proper the way the board had acted in their last decision to change the interest rate.

Attorney Richard Sticking who represents the DROP members stated that according to Article 1 Section 6 of the Florida Constitution, the public employees have the right to bargain collectively for benefits. The Florida Supreme Court has ruled that changes to pension benefits are also subject to collective bargaining. He also stated that he felt that the Board having the ability to change the interest rate was an unlawful delegation of authority.

Employee Janice Coakley stated she is the president of the AFSCME union for the general employees. She stated that their contract does not have anything in it regarding pension benefits. The pension plan is not just general employees, that there are supervisors and managers in the General Pension Plan (that are not in the bargaining unit), and that they should stick with the same procedure where employees in the pension plan can vote for changes. The AFSCME contract expires September 30, 2012 and has nothing to do with the Pension Plan, it is not in the contract and they want it (ie. pension benefits) to stay separate.

Board member Larry Gordon asked if when the board recommended to amend the plan for benefit changes in the past (ie. increasing multiplier from 2.75 to 3%), was it done through collective bargaining? Was there any objection at that time to it not being done thru collective bargaining? City Attorney Siegel did not believe so, to her knowledge.

Attorney Sugarman explained that collective bargaining pertains to the employer. The Board is only an administrative agency to administer the pension plan. The council can change the pension plan for whatever reason it wants: because we have made a suggestion, because of promises made and contracts signed through collective bargaining, or they can do it for whatever other motivation they might have. However, they cannot make a change for in the pension ordinance for unionized employees without either the union consenting to that change, or the union waiving the right to bargain over the change (which can either be done by an express waiver, or by inaction by the union). The union president seems to be suggesting that it has been by inaction by the union. That inaction or waiver of bargaining by inaction only takes place each time. Just because they waived it five years ago, doesn't mean they've waived it forever.

Chairman Helton stated that even though it may not have been done through collective bargaining, the members of the plan all had the right to vote for those ordinance changes, including those for the DROP.

City Attorney Siegel reviewed the ballot regarding the DROP which was sent to the members back on March 6th - 9th, 2006 which stated the following:

To approve adoption of a DROP plan with the following primary features:

- Eligible to enter the DROP at any time after the earlier of Age 55 with 20 years of service or attainment of Age 62
- 5 year maximum DROP period.
- COLA to commence 1 year after end of the DROP period.
- No member contributions during the DROP period.
- Interest Crediting - 6.5% compounded monthly – subject to change periodically

Chairman Helton reiterated that these items were actually stated ON the ballot that they used to vote on. City Attorney Siegel also reviewed the Administrative Rules for the DROP program, a five page document that is provided to each member entering the DROP to read, initial on each page, and sign, that they acknowledged the rules.

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DROP Participant Marsha Alexander asked who determined that the interest rate dropped 45%? She feels that the current members should be grandfathered in and only new members who enter the DROP should receive the new interest of 3%. Marsha was asked if she read the DROP application and rules forms. Marsha stated she did read the rules, but is now questioning the language of 6.5% compounded monthly and subject to change time to time. She feels it's too vague.

DROP Participant Carlos Ramirez discussed the issue of what the FRS did with their DROP change to allow current members to receive the 6.5% interest for those members in the DROP as of 6/30/2011. Carlos has asked whether our pension plan could do the same.

DROP Participant Susan Ritter was asked when she signed the forms if she reviewed the forms and understood what she signed. She stated that she was told by the plan administrator that the interest rate cannot be changed.

DROP Participant David Pesek asked whether the interest rate of 6.5% harms the plan? Charles Mulfinger stated that the plan earned 4.4% last year. Larry Wilson stated the 10 year return earned 4.04% as of 9/30/2011.

Bob Sugarman suggested that the Board should review the interest rate for the DROP each year.

After discussion, motion by Larry Gordon, seconded by Councilman Pierre to change effective date of the reduction of the DROP account interest rate of 6.5%, compounded monthly to 3.0%, compounded monthly effective 7/1/2012 for all current and future members.

Roll Call:

Victor Espinal	No
Lori Helton	Yes
Councilman Pierre	Yes
Larry Gordon	Yes

Motion carried

2. GRS – ACTUARY

a. 10/01/2011 ANNUAL VALUATION REPORT

Larry Wilson of Gabriel, Roeder, Smith & Co. presented the results of their actuarial valuation as of 10/1/2011. The funded ratio for 10/1/2011 is 64.1% a reduction from the prior year's valuation which was 70.3%.

He reported that the total required contribution for the fiscal year ending September 30, 2013 is \$4,556,884 (equating to 39.6% of the covered annual payroll). This total cost is funded by the City and through employee contributions. With employees contributing 7% through payroll deduction, the City must fund the remaining 32.6%. Administrator Lebowitz agreed to forward the valuation to the City's Finance Director.

Motion by Victor Espinal, seconded by Councilman Pierre, to accept the October 1, 2011 Valuation Report.

Motion carried unanimously

3. GRAYSTONE CONSULTING

a. MARCH 31, 2012 INVESTMENT REPORT

Charlie Mulfinger presented the performance report, indicating a total portfolio market value on 3/31/2012 of \$64,136,312 (including accrued income). This represents a net increase in value from the previous quarter of \$5,200,066. The total fund earned 8.77% for the quarter. (See attached Summary of Relevant Facts as of March 31, 2012)

Charlie Mulfinger was going to have an education session to review alternative investments since there are Board members not at this meeting. Charles Mulfinger would like to do a workshop following the next meeting on 8/16/2012.

b. REVISED INVESTMENT POLICY

Charlie Mulfinger reviewed and recommended a new Investment Policy with the committee to reflect the Real Estate Investment. The new Investment Policy would change from 40% to 32.50% in fixed income and 7.50% in Private Real Estate.

After discussion, motion by Larry Gordon, seconded by Councilman Pierre, to accept the new Investment Policy recommended by Graystone Consulting.

Motion carried.

After discussion, motion by Larry Gordon, seconded by Councilman Pierre, based on the recommendation of Graystone to fund UBS Trumbull with the \$4,125,000.

Motion carried

Bob Sugarman has suggested that a representative from UBS Trumbull attend the next committee meeting.

4. PENSION ATTORNEY REPORT

a. MERRILL LYNCH LAWSUIT

Bob Sugarman discussed the class action lawsuit that has been settled. The plan will receive approximately \$400,000 - \$450,000(as of the current calculations, which are subject to change) sometime in the future.

A claim form will be sent to each plan that is part of the class in the lawsuit. Mr. Sugarman advised the Board of its options to file a claim or opt out of the class and file its own lawsuit. He also advised the Board of the 25% contingency fee that the attorneys, including his firm, will seek to be paid out of the settlement proceeds with court approval. Because his firm participated in the negotiation and settlement of the case, believing it to be the best interests of all class members and will receive a share of the contingency fee award (together with the two other firms that were co-counsel to the class), Mr. Sugarman advised the trustees of the trustees' right to seek independent legal advice on the advisability of the settlement for the participants and beneficiaries of this pension fund on opting out of the class and on the reasonableness of the requested fees.

After discussion, motion by Larry Gordon, seconded by Councilman Pierre, to remain in the class and authorize Martin Lebowitz to complete the claims form and have our Chairperson Lori Helton sign the claims form.

Motion carried

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- Lori Helton had brought to the attention of Attorney Sugarman section 5(g) of the plan as follows, the Committee may employ such legal, technical, professional or other advisors and medical and other services as shall be required. After the public bid process, the Committee, by majority, selects the bank, investment counsel, investment monitor, auditor and actuary, and presents its selection to the Mayor and City Council for its acceptance or rejection of each category. The compensation for all such services shall be fixed by the Committee, subject to the limitations provided herein. This has not been done. City Attorney Siegel will research this issue.
- Bob Sugarman reminded the trustees of their continuing education obligation and discussed the upcoming Police & Fire Trustee School from May 14 – 16, 2012 which will be held in Tallahassee and the FPPTA in Orlando from June 24-27, 2012.

5. OPEN DISCUSSION

a. PENSION REFORM

Lori Helton discussed that the City has proposed to the union to freeze the Pension Plans. Bob Sugarman provided his understanding of as follows:

Freezing a Plan – Everyone is vested and no more benefits are accrued and an alternate different pension plan covers those that are still working and those who are hired thereafter.

Closing the Plan – current members would stay in the plan for the rest of their careers, continue to earn credit in the plan and retire when they are eligible. New members have an alternate different pension benefit and plan.

Termination of the Plan – the plan is shut down. Need to know what the liability is, what the assets are and what the plan still owes to the members. Then you pay everyone out either a lump-sum of their accrued present value of their benefit or buy an annuity for each member.

Tier 2 Plan – current members get one level of benefit and the members hired thereafter get another type of benefit usually lower.

In addition, Lori Helton will try to set-up a meeting with the City Manager and the Board to further discuss pension reform. Date to be determined.

b. UPCOMING TRUSTEE EDUCATION EVENTS

Lori Helton also mentioned another FPPTA Trustee School in Bonita Springs from October 7 -10, 2012.

6. APPROVAL OF MINUTES – 02/16/12 MEETING

Motion by Larry Gordon, seconded by Vic Espinal, to accept the February 16, 2012 minutes for the General Employees' Retirement Plan Meeting.

Motion carried unanimously.

7. APPROVAL OF INVOICES

Motion by Victor Espinal, seconded by Councilman Pierre, to approve payment of the following invoices:

Garcia Hamilton – Equity Quarterly Mgt. Fees	\$16,239.03
Garcia Hamilton – Fixed Quarterly Mgt. Fees	14,777.23
Buckhead Capital - Quarterly Management Fees	17,562.51
Morgan Stanley Smith Barney – Qtly. Consulting Fees	6,875.00
GW Capital - Quarterly Management Fees	6,097.27
Harding Loevner – Quarterly Management Fees	6,177.00
Thornburg Management – Quarterly Management Fees	4,570.48
MDT - Quarterly Management Fees	7,841.61
GRS – Actuaries Fees	25,422.00
Sugarman & Susskind – Legal Fees	6,600.00
Steven Gordon – Auditor	4,680.00
Salem Trust – Custodial Fees	7,972.47
Professional Indemnity Agency – Fiduciary Liability Insurance	14,687.49
City of NMB – Health/Dental/Group Life Premiums (M.Lebowitz,2/12)	518.47
City of NMB – Health/Dental/Group Life Premiums (M.Lebowitz,3/12)	518.47
City of NMB – Health/Dental/Group Life Premiums (M.Lebowitz,4/12)	518.47
Frantz Pierre – FPPTA Per Diem	200.00
Frantz Pierre – FPPTA reimbursement of rental and gas	590.78
Florida Unemployment (M.Lebowitz March 2012)	218.22
	<u>\$142,067.67</u>

Motion carried unanimously.

The next scheduled meeting is August 16, 2012 at 3:30 p.m.
Meeting was adjourned at 7:05 p.m.

Martin Lebowitz, Pension Administrator