

**MINUTES OF THE BOYNTON BEACH POLICE OFFICERS' PENSION FUND
QUARTERLY BOARD MEETING HELD ON TUESDAY, OCTOBER 11, 2016
AT 11:00 A.M., AT BOYNTON BEACH CITY HALL,
100 E. BOYNTON BEACH BOULEVARD, BOYNTON BEACH, FLORIDA**

PRESENT:

Toby Athol, Chair
Jason Llopis, Secretary
Scott Caudell
Russell Faine
Joe DeGuilio

Bonni Jensen, Board Counsel
Robert Dorn, Pension Administrator

1. CALL TO ORDER

Chair Athol called the meeting to order at 11:06 a.m.

2. ROLL CALL

Roll call established a quorum was present.

3. PUBLIC DISCUSSION

None.

4. CONSENT AGENDA

- a. Minutes from 7-26-16 Meeting

The minutes were not available.

- b. Warrant Ratifications / Approvals

Mr. Dorn reviewed each warrant to be approved.

Motion

Mr. Llopis moved to approve. Mr. Faine seconded the motion that unanimously passed.

The members discussed the SunTrust Bank account must be held open for credit cards. Mr. Dorn spoke with the branch manager, Chair Athol and Barbara LaDue, former Plan Administrator. The Bank's Legal Department wanted the Chair to fill out and approve an account signature card and the two custodian certifications for the Chair and Mr. Dorn. The Legal Department is sending a corporate resolution, similar to one they

signed previously with the SunTrust Logo on it. Mr. Dorn requested a motion to execute the documents and he would circulate the documents to the members during the meeting for signature.

Chair Athol explained the Board was having problems with SunTrust switching over the paperwork. They originally wanted minutes when each Board member and the Chair were approved to switch the address. Mr. Dorn had ordered the credit cards which came to him, but they did not send the bills to his address. It is a paperwork mess.

Motion

Mr. Caudell moved to execute the documents. Mr. Llopis seconded the motion that unanimously passed.

Mr. Dorn noted William Gailbraith passed away September 16th and he is survived by his wife. There is an annuity benefit, and it will be reduced for the October payment. The wife is not doing well and the daughter has legal guardianship. The second page of the documents showed the amount the payment will be reduced to.

Motion

Mr. Llopis moved to approve. Mr. DeGuilio seconded the motion that unanimously passed.

Mr. Llopis added a discussion of 185 monies, due to legislation, that he spoke to the HR Director, to item 8, open discussion as contract update.

5. NEW / UNFINISHED BUSINESS

a. Robert Kellman Disability Hearing

Mr. Dorn reviewed Mr. Kellman's disability request. Attorney Jensen explained they received information from Mr. Kellman who had applied for a Duty Disability Benefit. There have been two determinations as a fitness for duty evaluation from the City of Boynton Beach who determined he was unable to perform his functions. The Board also received the Workers' Compensation reports based on the records. He was sent to a doctor for an Independent Medical Evaluation which is part of the record and it provides a good review of all the records sent. The doctor determined he is unable to perform his functions as a police officer, and it is a not job related disability based on Mr. Kellman's personal physician and from the fitness for duty evaluations.

Attorney Jensen advised the members received information from Attorney Kelley on behalf of Mr. Kellman before the meeting which Attorney Kelley, who was present, reviewed. Attorney Kelley explained Mr. Kellman filed for a Line of Duty (LOD) disability benefit because the City sent him for fitness for duty evaluation and Workers

Compensation filed a notice of injury on June 11th, 2015. Based on that, it was assumed it would be a line of disability pension. When Attorney Kelley received the records, there was no indication he discussed work related conditions and problems. Mr. Kellman was requesting the Board to allow him to amend his application from a LOD disability to a non-LOD disability.

Attorney Kelley reviewed more specific information relating to Mr. Kellman's application reviewing various physician notes. The City had terminated Mr. Kellman's employment as not fit for duty and he last worked October 24, 2015. It was his opinion, the evidence before the Board supports a finding of a non-LOD Disability and he requested the Board make the same determination.

Mr. Dorn asked if the change was within the required time frame. Attorney Jensen thought it met the requirements of the plan. The non-service application just requires an application, but the process is no different. It would have to be documented that the request is changed from a duty related to a non-duty disability application. If he had to file a new application, he would no longer be eligible, and Attorney Jensen thought the change could be made.

Attorney Jensen noted the duty disability application requires they file for Workers Comp and Social Security Disability. It is not the same requirement for non-duty disability. To-date, a Social Security Disability application has not been filed, but Worker's Comp filed a denial of the application. When Mr. Kellman spoke with Ms. LaDue, neither he nor Ms. LaDue was certain which application to file. Mr. Kellman filed it as service connected and Ms. LaDue advised it could be changed later. Workers Comp was filed and notice of injury has to be done shortly thereafter and then information was received from physicians and was denied. Attorney Kelley advised they will more than likely withdraw the service connected application.

Chair Athol asked if there is a current Workers' Comp application. The question was if the injury was compensable or work related. There were prior issues which were not documented. The Workers Comp application still lists it as work related, but it has not been pursued. Attorney Jensen pointed out one doctor's concern regarding the timing of the disability and she noted the fitness for duty evaluations occurred before termination.

Chair Athol inquired, now that the application is changed, if there was anything else that is required differently. Attorney Jensen explained it is not a different procedure. The only different requirement for non-service incurred is on Exhibit C.9. Effective October 1, 2000, anyone with 10 years of service who receives a non-service injury, illness, disease or disability that totally and permanently disables them to the extent of the opinion of the Board of Trustees, that he or she is wholly prevented from rendering useful and efficient service as a police officer, shall receive from the fund, in equal monthly installments, an amount equal to 3.5% of his or her average final compensation.

Attorney Jensen explained it has to be at least 25% of the Average Final Compensation and shall not exceed 60%. The disability has to have existed for three months. She explained the same exclusions apply and all of the other provisions of the Ordinance apply, except for the requirement that they apply for Workers Comp and Social Security which applies to service related disability. Chair Athol asked if there was any further documentation needed they have not received. Attorney Jensen responded they need a statement from the applicant that he is converting his application to a non-duty disability benefit. Chair Athol asked, in regard to physical exams, if there was anything to segregate post termination and pre-termination treatment as it pertained to the disability. Attorney Jensen explained they can contact the doctor for a follow-up. Attorney Kelley agreed, noting two physicians had treated him before termination. He further clarified Mr. Kellman was withdrawing any claim of any condition that was not diagnosed during the pendency of his employment and that was why they were changing the application to a non-service connected disability. Attorney Jensen explained the application is basically the same. The only question not asked on the non-duty related disability is the proof that it is job-related. She favored approaching the physician as a result of the change in the application process.

Mr. Llopis inquired about the diagnosis. Attorney Kelley reviewed the documents pointing out the information. Follow up questions were about diagnosis and claim of injury disease or conditions with a comparison and contrast of the doctor's narrative, an answer to question eight, the last page of the Functional Capacity Examination. Why a suggestion as to the condition occurring after termination of employment was questionable.

Attorney Kelley noted case law indicates a Pension Board has to find a total disability and then questions turn to permanency. He thought if the City terminated him as not fit for duty, the Board is bound by that determination. The only question is if there is treatment so he could return to duty and he thought the doctors had answered that.

Attorney Jensen thought the follow up questions could inquire about other types of disabilities. Attorney Kelley commented the treating physician had addressed that question and thought there was redundancy. The outstanding question is if it is service or non-service connected. Mr. Llopis explained they have to cover their bases to make a decision. Attorney Kelley agreed, but thought there was sufficient information from the City regarding the basis of the termination and sufficient information from the doctors why he was unfit for duty and supporting evidence. He thought it was clear what happened and why it was there. Mr. Llopis wanted to wait for the doctor's information and wanted Attorney Jensen to follow up. Attorney Jensen agreed to request a narrative letter.

Mr. Kellman offered to hand carry the questions to the doctor, but learned hand carrying the letter was not a procedure they used in the past. The Board has to conduct due diligence. Chair Athol thought the questions were a minor request and pointed out they would call a special meeting in an effort to expedite the matter.

6. ATTORNEY'S REPORT

7. PLAN ADMINISTRATOR'S REPORT

a. Audit- Update

8. OPEN DISCUSSION

Mr. Llopis commented during contract negotiations, the City opened up discussions regarding Senate Bill 172 pertaining to the 185 money, which passed into law 2015-39. He spoke with Attorney Jensen and Julie Oldbury, Director, Human Resources, regarding the funds and after discussion they came to an understanding for 2017. The City is not going to collect any funds from 185, and in 2018 and 2019, the City would receive \$30K per year. For the three-year contract, the City would receive \$60,000. There was some discussion about the Bill, mostly the creation of a new benefit. Attorney Jensen sent a letter to Sarah Carr, Division of Retirement in Tallahassee seeking a determination if the plan is a Supplemental Plan and has not received a response. Mr. Llopis advised he alerted the City to the letter. Attorney Jensen explained she was led to believe it is a Supplemental Plan, but needed written confirmation.

Mr. DeGiulio noted the City is changing vesting from 5 to 10 years in the contract. Chair Athol understood the discussion was it pertained to people hired after a certain date or taking effect on a certain date. It would not affect current workers. Chair Athol explained he will see the language when they tentatively agree to the contract. Mr. Dorn explained this is contained in other plans and Boynton Beach was one of the few plans with five year vesting. Other plans had moved from eight to ten years. Chair Athol thought there would be a reopener in 2018/2019 in the last year of contract.

Mr. Llopis explained the Union received the last contract at their meeting last week and a meeting with the members was scheduled for October 12, 2016. The 185 funds will be filtered back to the fund to pay down only the unfunded liability. The rest of the funds will still be used to fund the existing benefit and distributed as is currently distributed.

Mr. Dorn explained the Board had approved an item to give to Ms. LaDue upon her retirement. He spoke to two people who were having a holiday dinner and they would like to present it to her there, but Ms. LaDue was not going. Tom Dettman, the Chief in Sebring and others would go to her house and present it to her. There would also be an expense to get a nice badge and have all sign it. He will obtain it, have it signed by the members and give it to the Chairman to present. He thought presenting it to her at a later time would be better.

Mr. Dorn explained there has been a slow down with issuing the Deferred Retirement Option Plan (DROP) statements and calculations. Previously they worked with the Pension Resource Center regarding other plans, but the problem was every time they

get an update, the software froze the line of code and they get a new code. The issue is linking all together to get a history. It stops at a certain point and he has to reconnect to other points. He has been working on this for two months and hoped to distribute it today to DROP participants.

Mr. Dorn also explained State Street has many cutoff times. With other plans Mr. Dorn handles, if there are no changes, they do not have to approve anything. This system requires approval within a set time frame and then it locks him out and he cannot issue a DROP or emergency check. Chair Athol noted the Board pays for State Street to issue checks. He questioned what the payment per transaction fee was from State Street as opposed to other vendors. When something changes at State Street, it is difficult.

The process is there is an Order for the Board to pay a certain amount of money to an ex-spouse. The check is divided up and sent to Tallahassee to a distribution center designed to distribute support checks. Last year, the Board went through this issue three times and a hard check was sent to Ms. LaDue. She sent the check back and it took two months to straighten it out. This year, there are two retirees with the same situation. Mr. Dorn explained State Street is looking into the matter and did not know if they are set up to handle what needs to be done for a retirement aspect. State Street charges just under \$2 to write a check. Attorney Jensen inquired if SunTrust could issue the checks. It was noted Ms. LaDue used to write a lot of checks to the vendor. It was just a matter of transferring the money over.

Attorney Jensen thought the actuary or auditor can help the Board determine a cash flow. The Board is allowed to keep money that is not productive in the checking account as it is operational and thought even Burgess Chambers could promulgate the best way to do so. Operationally, the Board is spending a lot of time and energy on State Street. The Board does not have a choice but to have them as custodian, but the Board has a choice regarding who writes the check. As long as they had a RD account at State Street, the money can be transferred to another vehicle which would allow the Board the opportunity to write the check. Mr. Dorn explained the Board needs a processing center and he would see if SunTrust has one. Once a system is set up, the only contact he has with them is once a year for benefit changes or deposits taken out for DROP distributions. A retiree asked for funds and it took 15 days. Mr. Dorn commented when a payment is cancelled, it stops there, but during the last three days of the month, once it is in the system, they cannot stop it with State Street. Other systems are not like that and there should not be a drop in service. The service provided for retirees is not up to the standards with other plans and Ms. LaDue had issues with them. It was noted most banks charge just under \$5 a check; State Street charges just under \$2, but the service provided was lacking.

Attorney Jensen commented SunTrust acts as custodian for several of her clients. Rather than using State Street as the payor, the Board uses them as custodian for the assets and transfers a bulk amount of money out to establish something elsewhere.

She was cautious transferring the custodian to Fiduciary Trust would result in unnecessary costs because they perform other services the Board would not use. Mr. Dorn agreed to look into it for the next meeting. She thought SunTrust should have some way to make these payments. There is \$3,900 in the account and there is no charge to keep the checking account open with a \$2,500 minimum.

9. ADJOURNMENT

There being no further business to discuss, the meeting was adjourned at 12:19 p.m.

10. NEXT MEETING DATE: November 16, 2016 at 10 A.M.



Catherine Chery
Minutes Specialist.