

**MINUTES
REGULAR PENSION BOARD MEETING
CITY OF DELRAY BEACH POLICE OFFICERS' RETIREMENT FUND
NOVEMBER 16, 2022**

1. CALL TO ORDER, ROLL CALL

Chair Weber called the meeting to order at 1:05 p.m.

Board Members present: Chair Paul Weber, Vice-Chair Jim Hoesley, Secretary Jeffrey Rasor, Meer Deen, and Scott Privitera.

Also present: Brendon Vavrica (AndCo Consulting), Pedro Herrera (Sugarman, Susskind, Braswell & Herrera as designated by City Attorney), Lisa Castronovo (City of Delray Beach), and Elizabeth Brown (City of Delray Beach)

Public attendees: Fred Ziegler, Mark Berkowitz, Julie Desmond (court reporter), Charles Hoeffler, Larry Seidlin

2. AGENDA ADOPTION

MOTION made by Mr. Rasor, seconded by Mr. Privitera, to adopt the November 16, 2022 Agenda. In a voice vote by the members present, **Motion** passed 5-0.

Item 3 of the Agenda was recorded.

3. FRED ZIEGLAR PETITION

Mr. Herrera stated Fred Ziegler, via his attorney, Mark Bekowitz, submitted a Petition for Disability Retirement Benefits Enhancement ("BE") for the Board to consider. Mr. Ziegler, a disability retiree, claimed he was entitled to the annual retirement benefit enhancement under the terms of the Plan.

Mr. Bekowitz, speaking on behalf of Mr. Ziegler, stated that Mr. Ziegler retired August 1, 1990. It was their position that per an opinion letter submitted to the Board by Janice Rustin, their prior legal counsel, Mr. Ziegler, along with all disability retirees who retired prior to 1999 was entitled to the annual BE commencing 25 years after his date of hire with the City. Mr. Herrera countered that Mr. Ziegler was not entitled to the BE due to the fact he retired before the BE was established via collective bargaining in 1993. Further, the collective bargaining agreement that established BE made it clear that such benefit was effective only for employees who retired after September 30, 1993. Effective October 1, 1999, City Resolution 29-99 stated explicitly that disability retirees are not entitled to the Benefit Enhancement

Mr. Ziegler addressed the Board stating how the City was sued in 2010 over the 1993 CBA and in his opinion the state statute will prevail over the City's ordinance regarding the BE. Mr. Ziegler was accompanied by retired judge Larry Seidlin who opined the BE issue was very gray. Mr. Bekowitz said since the money funding the BE was from the State, neither a City ordinance nor a local law can bargain away a retiree's benefit based on that State money, like the BE.

Mr. Herrera responded that unions and cities were free to bargain over Chapter 175/185 monies, thus the City and union was welcome to bargain which retirees received the BE, but the Board of Trustees must follow whatever the Ordinance mandates. As such, if a lawsuit was filed regarding any benefit in the City's ordinance, it must be filed with the City, not the Board of Trustees. As stated, the Board of Trustees must follow what the ordinance dictates because if they do not, they will breach their fiduciary duty to the Plan's participants. Chair Weber and Mr. Hoesley concurred with Mr. Herrera.

Mr. Herrera stated the Board needed to make a motion to either grant or deny Mr. Ziegler's claim for the Benefit Enhancement benefit.

MOTION made by Mr. Rasor, seconded by Mr. Hoesley, to deny disability retiree Mr. Ziegler's claim for the Benefit Enhancement. In a roll call vote, **Motion** passed 5-0.

The recording device was turned off.

4. COMMENTS

a. Public Comments - None

b. Board of Trustees of Police Officers' Retirement System

Mr. Rasor said he still wanted to the pension administration system to correctly reflect active officers' break in service so he would work with Chair Weber to provide a list of names to the Ms. Castronovo of the officers with breaks.

Mr. Deen stated he would like to attend the annual Police and Firefighters' Trustees' Conference in Orlando in December 2022, but needed the Board's approval to attend since he had already attended two in-state conferences.

MOTION made by Mr. Rasor, seconded by Mr. Privitera, to allow Mr. Deen to attend the annual Police and Firefighters' Trustees' Conference in December 2022. In a voice vote by the members present, **Motion** passed 5-0.

c. Active and Retired Members of the System - None

5. CONSENT AGENDA

a. June 22, 2022 Regular Meeting Minutes

b. Warrant Ratification (#260)

c. Warrant Approval (#261)

d. Ratify/Approve – Refunds/Benefit Enhancements/New Retirement/DROP/Vested/Death Annuities

e. Administrative Expense Budget for 2022-23

MOTION made by Mr. Deen, seconded by Mr. Rasor, to approve the Consent Agenda with one correction in the June 22, 2022 Minutes. In a voice vote by the members present, **Motion** passed 5-0.

6. ADMINISTRATIVE ITEMS

a. Annual Board Officers' Election

MOTION made by Chair Weber, seconded by Mr. Privitera, for Jeffrey Rasor to serve as Board Chair. In a voice vote by the members present, **Motion** passed 5-0.

MOTION made by Mr. Hoesley, seconded by Mr. Deen, for Paul Weber to serve as Board Vice-Chair. In a voice vote by the members present, **Motion** passed 5-0.

MOTION made by Chair Weber, seconded by Mr. Rasor, for Meer Deen to serve as Board Secretary. In a voice vote by the members present, **Motion** passed 5-0.

b. 2023 Board Meeting Schedule

MOTION made by Mr. Rasor, seconded by Mr. Deen, to adopt the 2023 quarterly Board meeting schedule as presented by Ms. Castronovo. In a voice vote by the members present, **Motion** passed 5-0.

c. Fiduciary Liability Insurance

MOTION made by Mr. Privitera, seconded by Mr. Hoesley, to accept the fiduciary liability insurance policy for \$5M coverage with a premium of \$15,631.51. In a voice vote by the members present, **Motion** passed 5-0.

7. REPORTS

a. NFP Retirement, Inc. – Matt Stewart

No presentation as NFP was unable to make the meeting.

b. AndCo Consulting – Brendon Vavrica

i. Portfolio Performance Review – Quarter End September 30, 2022

Report made part of these Minutes.

Mr. Vavrica reported the Retirement System's net rate of return for the quarter ended September 30, 2022, was -4.5% compared to its benchmark of -4.7%. For the fiscal year ended September 30, 2022, the System's net rate of return was -16.9% vs. the benchmark of -15.2%. The single biggest factor holding up investment returns was real estate since their returns were over 25% during the year. All other asset classes performed poorly in the quarter. The System's market value decreased from \$116.2M on June 30, 2022, to \$109.9M on September 30, 2022.

Mr. Vavrica shared two handouts (made part of these Minutes). The first handout showed how, in a typical year, the return of one asset class (domestic equity or fixed income) offsets the poor performance of the other. However, in 2022, both asset classes performed poorly resulting in the worst combined return in 46 years. The second handout showed the typical length of bull and bear markets over the last 75 years. The typical bear market lasted 13 months with an average market loss of 33%; the typical bear market was 53 months with an average market gain of 155%. As of December 2022, the US economy had been in a bear market almost 12 months, just a month short of the average 13-month bear market. Thus, if the average held, the economy was posed to move out of the bear market in early 2023.

ii. Flash Report – October 2022

Report made part of these Minutes.

For the month ended October 31, 2022, the System's return, net of fees, was 4.6% vs. the benchmark of 4.1%. Mr. Vavrica noted specifically passively managed RhumbLine Value Index fund returned 10.2%, active value manager Brandywine returned 11.7% versus its benchmark of 10.2%, and active value manager Clarkston Partners had a good return of 9.9%, though it was behind its benchmark of 10.6%. ABS's emerging markets return was -9.7% which was significantly behind its benchmark of -2.7%. Mr. Vavrica was not concerned by ABS's performance, however, given the recent erratic global returns.

Mr. Hoesley asked Mr. Vavrica to bring to the next Board meeting information about Oak Street, an active core real estate manager. Mr. Hoesley was also interested in seeing information regarding closing bond funds.

b. Sugarman, Susskind, Braswell & Herrera – Pedro Herrera

Mr. Herrera reported, per the Board's motion at the September 21, 2022 meeting, he drafted the final order denying Marques Brown's duty disability benefit application. Once the Board accepted the order, Mr. Herrera said he would send it to Heather Hatch for her approval, after which she would forward to Alan Aronson, Marques Brown's attorney.

MOTION made by Mr. Deen, seconded by Mr. Privitera, to approve the Order Denying Duty Disability Benefit Application of Marques Brown. In a voice vote by the members present, **Motion** passed 5-0.

Chair Weber asked Mr. Herrera about the status of getting disability retiree Terry Jones a medical review as per the Board's direction at their September 21, 2022 Board meeting. Mr. Herrera responded that he had reached out to physicians to schedule the exam but needed all Mr. Jones' medical records that the Board (or Pension office) had so that he could provide to the physician in advance of the exam. Ms. Castronovo said she would send the records over as soon as possible.

Mr. Herrera reminded the trustees of the State's reporting requirements if they accepted any gift. Mr. Herrera added that Sugarman, Susskind, et. al. would make a \$25 contribution in the Board's honor to The Miracle League.

c. Pension Administrator

Ms. Castronovo: 1) provided the trustees with the 2022-23 administrative expense budget versus actual expenses through November 9, 2022; 2) reported that the State Premium Tax monies and the City's contribution received in September/October had been invested per the Board's direction; and 3) requested if any trustee wished to attend FPPTA's Winter Trustees' School in Orlando in January 2023 to let her know.

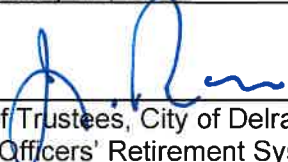
Ms. Castronovo reminded the Trustees that every year they approve the pay out in December of 75% of the prior March 31st Administrative Allowance Account balance to members with an open DROP account on the date of the payout.

MOTION made by Mr. Deen, seconded by Mr. Privitera, to disburse in December 2022, 75% of the March 31, 2022 Administrative Allowance Account balance to all participants with money in the DROP account at MissionSquare on the date of the distribution. In a voice vote of the members present, **Motion** passed 4-0 (Mr. Hoesley was not present).

ADJOURNMENT

MOTION made by Mr. Hoesley, seconded by Mr. Rasor, to adjourn the meeting. Meeting adjourned at 3:23 p.m.

I, Jeffrey Rasor, the undersigned, am the Chair of the Board of Trustees of the City of Delray Beach Police Officers' Retirement System ("Board"). The information provided herein is the Minutes of the November 16, 2022 regular meeting of said body. These Minutes were formally approved and adopted by the Board on February 22, 2023.



Board of Trustees, City of Delray Beach
Police Officers' Retirement System

NOTE TO THE READER: If the Minutes you have received are not complete as indicated above, this means these are not the official minutes of the Board of Trustees of the City of Delray Beach Police Officers' Retirement System. Minutes will become official only after they have been reviewed and approved, which may involve some amendments, additions or deletions to the Minutes as set forth above.

NOTE: upon official approval by the Board of Trustees, the Minutes will be posted on the City of Delray Beach website at: www.delraybeachfl.gov.