

**PALM TRAN ATU LOCAL 1577
MINUTES OF MEETING HELD
NOVEMBER 29, 2007**

Chairperson Richard Roberts called the meeting to order at 10:45 A.M. in the Dale R. Smith Conference Room at Palm Tran North Facility, 3201 Electronics Way, West Palm Beach, Florida.

TRUSTEES

Dwight Mattingly
Frank Stanzione
Richard Roberts
Brad Merriman

OTHERS PRESENT

Bonni Jensen, Hanson, Perry, & Jensen
Sidney Taylor, Burgess Chambers & Associates
Paula Freiman & Chad Little, Freiman Little Actuaries
Scott Baur & Nick Schiess, Pension Resource Center
Bob Sugarman, Sugarman & Susskind
Other Visitors

APPROVAL OF THE AGENDA

The Board reviewed the agenda for the meeting. **A motion was made by Brad Merriman to approve the agenda. The motion was seconded and carried 4-0.**

Brad Merriman and Richard Roberts announced their upcoming resignation from the Board. A discussion arose regarding the appointment of Board Officers and rotation of County and Employee Trustees for the office of Chairperson and Secretary.

MINUTES

The Board reviewed the minutes for the meeting of August 23, 2007. **A motion was made by Dwight Mattingly to approve the minutes of August 23, 2007. The motion was seconded and carried 4-0.**

ACTUARY REPORT: PAULA FREIMAN & CHAD LITTLE

Paula Freiman presented a schedule of recently processed retirement benefits noting that the benefits had been finalized and the retirees were in payment status. She reminded the Trustees that the Board at the last meeting had authorized the commencement of final retirement benefits to applicants after the calculations were finalized by the Actuary and Administrator, which were then to be ratified by the Board at the following meeting. **Brad Merriman made a motion to ratify the retirement benefits presented. The motion was seconded and carried 4-0.**

Ms. Freiman reviewed the pending benefit calculations individually and discussed the outstanding requirements for the completion of the calculations. She advised that estimated benefits had been issued for retirees Kenneth Lunden, William Vaughn, Sowande Nosakhere, and Sydney McIntosh for a significant period of time, however, the retirees had not submitted either a valid Benefit Election Form or Spousal Consent Waiver despite numerous requests and therefore the finalization of their benefits could not be completed. Mr. Lunden appeared before the Board and discussed the

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circumstances that prevented his spouse from executing the Spousal Consent Form. It was noted that Ms. Lunden had previously executed the Form back when Members were permitted to elect an optional form of benefit based upon an estimate of their benefits but the Board had later determined that only an election based upon the calculation of their actual benefit was valid. **Dwight Mattingly made a motion that due to extenuating circumstances to temporarily waive the requirement of a completed Spousal Consent Waiver for Kenneth Lunden until Ms. Lunden is able to execute the Waiver. The motion was seconded and carried 4-0.** The Board then discussed the disposition of the benefits for William Vaughn who had failed to return a valid Benefit Election Form but had selected a life annuity form of payment based upon an estimate at the date of his retirement. Bob Sugarman noted that even though Mr. Vaughn selected an optional form of payment based upon an estimate, he had selected the normal form of payment for an unmarried Member and was indeed unmarried. Mr. Sugarman recommended correspondence be sent to Mr. Vaughn advising him that since he had failed to return a Benefit Election Form based upon the actual calculation the Board would therefore consider the previous election of the normal form of payment as valid and he has then ninety days to appeal the Board's decision. The Board agreed and directed the Administrator to correspond with Mr. Vaughn. The Trustees then discussed the failure of Sowande Nosakhere and Sydney McIntosh to submit a valid Benefit Election Form noting that no extenuating circumstances had been identified. The Board decided that the Administrator should provide notification to Mr. Nosakhere and Mr. McIntosh that they have been issued estimated benefits and these estimated benefits would discontinue effective March 1, 2008 unless they either submitted a valid Benefit Election Form or attended the next Board meeting to provide an explanation of the reason they were unable to complete the Form.

Ms. Freiman reported that the many previously outstanding benefit calculations had been finalized with the exception of the death benefits of Bobby Purvis, retirement benefits of Jeannette Wagner, and vested deferred benefits of Gerald Bryan. She advised that additional payroll and service information was required and this information had been requested from the County.

Ms. Freiman requested clarification whether a Member with less than ten years of service could retire then request a refund of contributions and defer retirement with a reduced benefit. A lengthy discussion arose and both Ms. Freiman and Bonnie Jensen recommended against permitting this to occur.

Lorraine Szmys appeared before the Board to request a refund of the pension contribution of her deceased husband and active member Dale Smith. She explained that she was recently advised that she was unable to receive a refund but instead only a deferred monthly benefit, however, she was previously advised by former actuary SEGAL and prior administrator Administrative Services Incorporated that she was eligible for a refund instead of the deferred monthly benefit. It was noted that her deferred benefit was calculated as a survivorship benefit in accordance to Plan provisions, which do not provide for a refund of contributions but instead only a monthly annuity. It was also noted that Mr. Smith would have been eligible for a refund

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and reduced monthly benefit had he separated from service instead of passing away. A lengthy discussion ensued regarding amending the Plan to afford the same options to survivors of deceased active Members that was provided to active Members with regards to obtaining a refund of contributions with a corresponding reduced deferred monthly annuity at an actuarial equivalence. Chad Little advised that a refund of contributions to terminated vested members resulted in a slight but not material cost to the Plan. The Board requested that the Attorneys prepare draft language amending the Plan to provide survivors the additional options of a refund of contributions or immediate commencement of a reduced monthly annuity at an actuarial equivalent and the matter be reconsidered at the next meeting.

Ms. Freiman reviewed the circumstances of Alan Bayer's Application for Disability Benefits noting that he had passed away before the Board could consider his Application. She reported that he had been awarded social security disability benefits retroactively and therefore under the provisions of the Plan his disability benefit would have commenced on the date of March 1, 2007, which was the first of the month following the submission of his Application. She reported that Mr. Bayer was married but the marriage had occurred after the date of commencement therefore the form of payment defaulted to the standard form of payment for an unmarried member, which is a modified cash refund annuity. Chad Little explained that a modified cash refund annuity provides the issuance of payments of an amount at least equal to the amount contributed by the Member. He requested clarification of whether a lump sum refund of contributions was considered as payment in the determination of the amount that had been issued to the Member or instead whether that amount was determined as the sum of monthly annuity payments. A very lengthy discussion ensued and ultimately the Board decided that a refund of contributions was considered as payment to Members under the modified cash refund annuity.

Chad Little presented the Actuarial Valuation for the fiscal year ending December 31, 2006. He reviewed the funding progress of the Plan noting that it was negatively impacted by the investment losses of prior years. Mr. Little discussed the experience of the Plan noting that the salary growth was slightly higher than expected. He then discussed the asset smoothing method, which averaged investment returns over a five-year period to reduce the effect of market volatility and provide more stable funding requirements. The funded ratio decreased from 88.0% to 82.8% attributable to the prior years' investment losses and Plan experience. Mr. Little reported that the credit balance for funding had decreased from the amount of \$2,364,312 from the prior year to \$1,309,243 and would likely be consumed this year at the current employer contribution rate of 12.1%. He anticipated that the employer funding requirements were expected to be approximately 19.4% for the 2009 fiscal year and he would complete the Actuarial Valuation for the 2007 fiscal year soon as possible.

The meeting recessed from 12:06 P.M. to 12:39 P.M. for lunch.

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INVESTMENT CONSULTANT REPORT

Sidney Taylor appeared before the Board to present an investment performance report for the quarter ending September 30, 2007. He reported that the return for the quarter was 2.7% versus the index of 2.4% and for the fiscal year was 9.6% versus the index of 7.1%. The market value of the portfolio was the amount of \$45,067,393.

Mr. Taylor reviewed the performance of the individual investment managers and reported that the best performing managers for the quarter ending September 30, 2007 were Fisher Investments with a return of 4.6%, Galliard TIPS portfolio with a return of 9.3%, and the I-Shares of large cap growth equities with a 4.6% return. He reviewed the compliance checklist noting that all items were in compliance. Mr. Taylor was questioned whether any changes were recommended to the asset allocation and he responded that there were not any recommended changes at this date.

REPORTING OF PLAN FINANCIALS

The Board reviewed the unaudited financial statements provided by the Administrator for the period ending October 30, 2007. The Board received and filed the financial statements.

APPROVAL OF DISBURSEMENTS

The Board reviewed the disbursements provided for approval. **A motion was made by Dwight Mattingly to approve the disbursements as presented. The motion was seconded and passed 4-0.**

ATTORNEY REPORT: BOB SUGARMAN

Bob Sugarman provided the securities monitoring reports to the Administrator to be forwarded to the Custodian.

Mr. Sugarman discussed an SEC investigation into the Plan's former Investment Consultant Merrill Lynch Consulting Services, which included allegations of receiving undisclosed compensation. He reported that another client had filed for a securities arbitration alleging that the firm had made recommendations that financially benefited the firm. He advised that either investigation might produce useful evidence to the Board in determining whether a legal action is warranted, however, the statutes of limitations were a concern. He further advised that the Board could take no action, file a legal action, or monitor the investigations and request the firm execute a tolling agreement to stop the expiration of the statutes of limitations. A lengthy discussion ensued. **Dwight Mattingly made a motion to monitor the investigations and request the Merrill Lynch Consulting Services to execute a tolling agreement. The motion was seconded and passed 4-0.**

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Mr. Sugarman announced the recent passage of Protecting Florida's Investments Act, which was State legislation prohibiting the State from investing in foreign companies suspected of sponsoring terrorism. He reported that the State Board had produced a list of fifty-seven businesses and the holdings of those firms were immediately divested with a value of over \$1.5B. Mr. Sugarman advised that the Board was not mandated to participate, however, could either question the Plan's investment managers regarding investing in these firms or request the managers' divestiture of these holdings unless the managers advised that the holdings were of significant importance to the portfolio. **Dwight Mattingly made a motion to request the Plan's Investment Managers to divest the specified holdings unless the Managers advised that the holdings were of significant importance to the portfolio. The motion was seconded and passed 4-0.**

ATTORNEY REPORT: BONNI JENSEN

Bonni Jensen reported that a response from the County had been received yesterday regarding a request for comments on the proposed revised Trust Agreement and therefore she was unable to thoroughly analyze the comments prior to the meeting. Ms. Jensen discussed the necessity of revising the Trust Agreement noting that the current Agreement contained provisions contrary to State Law for governmental pension plans and also the Agreement must be to be submitted to the Internal Revenue Service to obtain a tax determination letter. **Dwight Mattingly made a motion to adopt the revised Trust Agreement. The motion was seconded, however, did not pass with Richard Roberts and Brad Merriman dissenting.** A lengthy discussion ensued regarding the necessity of revising the Trust Agreement and the length of time that the matter had been under consideration. It was noted that the options were to continue under the current Agreement, amend those provisions contrary to State law, or address the issues that the County presents. The matter was tabled until the next meeting at which date Ms. Jensen was requested to submit a Trust Agreement that is acceptable to the County or an alternative Agreement that removes the provisions contrary to State Law. A discussion arose regarding obtaining a tax determination letter from the Internal Revenue Service. **Dwight Mattingly made a motion to authorize Bob Sugarman to initiate the filing for a tax determination letter. The motion was seconded and passed 4-0.**

As a follow up to the last meeting, Ms. Jensen discussed the removal of the interest provision in refunds of contributions for vested deferred members and whether the removal of interest could be effective immediately or just prospectively for new Members. Mr. Little was questioned regarding whether the elimination of interest in refunds of contributions for vested deferred Members would favorably affect the cost of the Plan and he advised that the proposed revision should result in a minimal cost savings to the Plan. The Board requested an analysis and that the matter be placed upon the agenda for the next meeting for further consideration.

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ADMINISTRATIVE REPORT

Nick Schiess reported that the new Board policy went into effect limiting estimated benefits for new retirements of married Members to 85% of the amount indicated on their last benefit statement. He advised that as a result not a single overpayment had occurred therefore the policy has proved successful in reducing overpayments.

Mr. Schiess reported the receipt of an Application for Disability Benefits from Fernando Moreno.

Mr. Schiess reported that the Annual Benefit Statements had been mailed to the active Members.

Scott Baur was questioned regarding the status of the audit and he advised that the Auditor had encountered difficulty in obtaining from the County a recreation of the payroll data information originally provided to the Administrator and his office had provided all the information that was requested by the Auditor.

Paula Freiman advised that the backlog of many outstanding benefit calculations had been resolved and requested that the Board suspend the requirement of her office to copy the Board and Bonnie Jensen on all correspondence to the Administrator regarding benefit calculations and the Board agreed.

OTHER BUSINESS

As a follow up to the last meeting wherein it was reported that employee contributions have remained post-tax despite the supposed conversion to pre-tax back in the year 2001, Nick Schiess advised that he and Bonnie Jensen had discussed the matter with the Plan's Auditor and he had conducted research into the records of contributions for active and retired Members. He advised that additional research was required before a full and thorough report could be provided to the Board and agreed to provide a report at the next meeting.

A discussion arose regarding the upcoming Florida Public Pension Trustees Association Trustees' School in January 2008, the timing of the appointment of the replacements for Trustee Brad Merriman and Richard Roberts, and whether their replacements may attend the event. **A motion was made by Dwight Mattingly to approve the replacement Trustees to attend the Florida Public Pension Trustees Association Trustees' School in January 2008. The motion was seconded and carried 4-0.**

Frank Stanzione made a motion to appoint to Dwight Mattingly as Chairperson. The motion was seconded and carried 4-0.

The 2008 quarterly meetings were scheduled on the dates of February 28, 2008, May 22, 2008, August 28, 2008, and November 20, 2008.

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There being no other business, the meeting was adjourned at 3:19 P.M.

Secretary