

**ATU LOCAL 1596 PENSION FUND
MINUTES OF MEETING HELD
July 15, 2016**

Board Members Present:

Ronald Morgan – Chairman, Union Appointee
Blanche Sherman – Secretary, LYNX Appointee
Frank Luna - Union Appointee
Tangee Mobley - LYNX Appointee
Ismael Rivera – Union Appointee
Donna Tefertiller - LYNX Appointee

Others Present:

Scott Baur, Plan Administrator (Resource Centers)
Pedro Herrera & Bob Sugarman, Counsel (Sugarman & Susskind)
Tom Zehnder & Fritz Wermuth (King, Blackwell, Zehnder, & Wermuth)
Frank Wan, Burgess Chambers & Assoc.
Lisa Smith, Court Reporter
Jim Goldsmith

Agenda Item	Discussion	Decision	Status	Follow-up
1.	<p>Chair Ron Morgan called the meeting to order at 9:24 AM in the Second Floor Board Room at Lynx Central Station, 455 N. Garland Avenue, Orlando, FL 32801.</p> <p>Chair Morgan addressed the Board, stating that part of the Agenda covered the routine business of the plan. Even with the need to cure prior Board actions, the Board must still attend to current business as well. The Board discussed additions to the Agenda and requirements for posting. Blanche Sherman clarified that she did not ask for additional items on the Agenda, with her intent misconstrued by the Administrator. Both Mr. Sugarman and counsel to the Trustees for the cure process recommended that once the Board publishes the meeting Agenda, that Agenda should not change without also posting any revisions well in advance of the scheduled meeting.</p> <p>The Board acknowledged that the meeting was properly noticed.</p>			
2.	No members of the public addressed the Board.		Closed	None
3.	The Board discussed the draft Minutes available for review, and the Trustees identified a missing set of minutes for the April 15, 2016 special meeting to retain counsel to represent the Trustees individually through the cure process. The management trustees were also requested to provide minutes for workshops held on March 29 and June 7, 2016.	Bob Sugarman clarified that the full Board would receive but not approve the Minutes for workshops by the management trustees. Ms. Sherman stated that the management trustees serving on the Board did not yet have an additional workshop to approve those minutes. The Trustees provided some initial corrections	Open	Board

		<p>to the Administrator for the available draft minutes. Mr. Zehnder advised that the Trustees and counsel should forward any further corrections to the Administrator and suggested that the administrator should redline all changes. The Board debated whether the Minutes for the Meeting of December 1, 2015 should appear as an item for regular approval or part of the cure process. Tom Zehnder also suggested that the Agenda should list all the Minutes for approval.</p> <p>The Trustees requested hard copies of the Florida Sunshine Law Manual.</p> <p>Blanche Sherman made a motion, seconded by Frank Luna, to table approval of the draft minutes for the meetings on February 23, 2016; March 30, 2016; April 15, 2016; May 19, 2016, and June 8, 2016 to allow for additional time for review. The Board passed the motion 6-0</p>		
3.	<p>The Board considered the format of the meeting Agenda. An addition to the Agenda to consider the format was removed from other business, since this addition was made after the original Agenda was posted. Attorney Sugarman advised that the Agenda both informed the public as well as the Trustees regarding the anticipated topics for discussion at the Meeting. The Trustees made various suggestions, including a brief narrative to describe items on the Agenda. The Board also considered whether the Agenda should identify action items. Trustee Sherman requested clarification regarding the parameters for "New Business" or "Other Business" appearing on the Agenda.</p>	<p>The Trustees directed the Administrator to place discussion of the Board Agenda on the next meeting Agenda for discussion.</p>	Open	Board
4a.	<p>Investment Consultant: Frank Wan reported that the market was more volatile in the last 9 months than any other time since the Great Recession. Markets quickly recovered, while oil reached new lows for recent years in 2016. Meanwhile, consumer spending drives the economy, and consumer sales seem to be improving.</p> <p>Mr. Wan reported that the portfolio gained 2.6% gross for</p>	<p>The Trustees considered the current commitment to real estate, which the Board increased already by \$2M called by the manager on April 1. The portfolio included a total allocation to real estate of 8.2% of assets as of June 30. Mr. Wan stated that falling interest rates and institutional investment from hedge fund allocations should continue to give</p>	Closed	None

	<p>the quarter ending 12/31/15 and 0% for the calendar year, compared to gains 4% for the benchmark for the quarter and 1.3% for the calendar year. Frank Wan then reported that the market had a “V” shaped recovery following the drastic market decline at the beginning of 2016. The portfolio managers lost less as the market went down and gained less as the market increased. Howard Miller, the MLP (Multiple Limited Partnership) Manager had poor performance with a portfolio dedicated to investment in the energy sector. The Board discussed expectations regarding commodity prices.</p> <p>Mr. Wan reported that the portfolio gained 1% gross and 0.9% net of fees for the quarter ending March 31, 2016. Also as of March 31, the portfolio gained 3.4% net for the fiscal year to date compared to a gain of 6.2% for the benchmark. The MLP performance continued to weigh on the portfolio for the period. Mr. Wan reviewed the performance for the individual investment managers; the Plan had total assets of \$124,076,703 as of March 31.</p> <p>Mr. Wan reviewed the preliminary performance for June 30, 2016. The portfolio had total assets of \$126,227,934 as of June 30, with a gain of 2.3% net for the quarter and 5.8% for the fiscal year to date, compared to an 8.7% fiscal year gain for the benchmark. The benchmark return ranked in the top 1% of the comparison universe, meaning that active managers have trailed in the current rising market.</p>	real estate a boost in the market.		
4b.	<p>Attorney Report: Pedro Herrera addressed the characterization of the settlement to Aldaberto Ruiz. Current and future payments should be classified as taxable income to Mr. Ruiz.</p> <p>Mr. Sugarman rendered an opinion regarding Santo Iraci, a member reinstated through arbitration. The Plan should receive contributions from both the member and from Lynx for compensation paid to Mr. Iraci as part of the</p>	<p>The Trustees considered the claim to the fiduciary liability insurance policy for the Ruiz lawsuit. The total expenses came to just over \$10,000, the same amount as the deductible on the policy held by the Board. Sugarman adjusted the charges to not exceed \$10,000 and the Board withdrew the claim against the policy to maintain more favorable renewal terms.</p> <p>The administrator reported that Mr. Iraci elected the enhanced benefit tier, which took effect on October 1 immediately prior to his October 4, 2014 termination. Mr. Baur will</p>	Closed	None

	<p>settlement.</p> <p>At the meeting of June 8, 2016, Trustees Donna Tefertiller and Tangee Mobley abstained from the vote on a motion to collect contributions from employees participating in the defined contribution plan. Mr. Sugarman reported that he advised the Trustees at the June 8 meeting that they could not abstain from the vote, but after further research, he determined that a Trustee can abstain based on the classification of Lynx as an independent district. He stated that frequent abstentions by any trustee might be construed as a breach of fiduciary. Mr. Sugarman therefore indicated that the minutes should also reflect the abstention by Tangee Mobley on the motion. Mr. Sugarman apologized to the Board for the misunderstanding.</p>	<p>address the matter and possible additional contributions by the member with Lynx.</p> <p>Chair Ron Morgan and Trustee Luna objected to recording a change to the vote on the motion, since the Board minutes should reflect the actual vote on the motion. Mr. Sugarman noted the unique circumstances in this situation. Trustee Tangee Mobley addressed the Board and stated that she only cast a vote against the motion because counsel advised that she could not abstain. The Board considered the possible precedent created by the matter. After much additional discussion, Chair Morgan allowed for the change to the record so the Board could proceed to other items on the Agenda. Frank Luna and Ismael Rivera inquired about a policy or amendment to the Trust Agreement that would not allow Trustees to abstain from future votes.</p> <p>The Chair recognized Jim Goldsmith, who noted that Robert's Rules do not allow the Board to revote on a motion. Chair Morgan responded that the Board was not specifically constrained by Robert's Rules.</p>		
4b.	<p>Mr. Sugarman then addressed the voting deadlock. He advised that the matter of collection of contributions should still go to arbitration as demanded by Trustee Frank Luna following the June 8, 2016 vote. Mr. Sugarman explained that the Trust Agreement does not offer a definition for a deadlock. He therefore advised that any situation that does not allow the Trustees to move forward constitutes a deadlock. In this case, no question exists that the Trustees have a dispute. Per the Trust Agreement, the Board must proceed to arbitration to resolve any disputes. If the Trustees hire counsel for the arbitration, then the Board must also set a budget.</p>	<p>Mr. Sugarman indicated the Board should select an arbitrator. The Trustees questioned, that if a Trustee abstained from a vote on the motion, whether that particular Trustee would remain a party to the dispute. Mr. Sugarman stated that a Trustee abstaining from the vote would explain why that Trustee did not see the issue as a matter for the Board during the arbitration process. The Trustees further discussed procedure for the arbitration. Since a matter going to arbitration by definition can no longer come before the Board for consideration, Mr. Sugarman advised that the Trustees were not constrained by Sunshine Law from separately meeting with counsel or preparing for the arbitration.</p>	Open	Counsel

	<p>Mr. Sugarman recommended a budget of \$50,000 per side on the arbitration, or if two matters get combined into a single arbitration, a budget of \$75,000 per side.</p>	<p>Trustee Blanche Sherman stated that the Board should not use Plan assets to pay for a matter related to collective bargaining, while Chair Morgan noted that the Board should not expect a third party not involved in a dispute of the Board to pay for the cost of the dispute. Frank Luna also noted that voting deadlocks originate from the Board.</p> <p>Frank Luna made a motion to hire counsel, seconded by Ismael Rivera. Mr. Sugarman referred to Section 5.2 of the Trust Agreement, which states that the Plan shall reimburse Trustees for reasonable and necessary expenses. The cost to engage counsel was both reasonable and necessary. Frank Luna clarified his motion to cap expenses at \$45,000 for a single arbitration and \$65,000 for two arbitrations handled together. Ismael Rivera seconded the amended motion. Chair Ron Morgan called the question on a roll call vote, and Trustees Ron Morgan, Frank Luna, and Ismael Rivera voted for the motion. Trustees Blanche Sherman, Donna Tefertiller, and Tangee Mobley voted against the motion. Frank Luna called for arbitration on the matter of reimbursement for legal expenses related to an arbitration matter.</p> <p>The Trustees further discussed a budget on the arbitration to set an arbitration budget. At the June 8, 2016 the Trustees voted 4-2 to make the Plan actuary available for an arbitration but to pay the cost of the actuary by a third party. The Board determined that the vote to have a third party pay for the cost of the Plan actuary in an arbitration applied only to services of the actuary. The Trustees made a distinction between the choice to engage counsel and the matter for reimbursement of costs. Mr. Sugarman stated that the Plan should reimburse costs that are proper, reasonable, and incurred by the Trustees. The cost for the</p>		
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		<p>arbitrator is an expense of the fund, not an expense incurred by the Trustees. Chair Morgan stated that Section 5.01 of the Trust Agreement provides for reimbursement of expenses incurred by the Trustees in the performance of their duties. Ms. Sherman requested a written legal opinion to allow additional time to properly consider the situation. Mr. Sugarman suggested that the arbitrator, typically an attorney, might tend to favor parties to an arbitration to engage proper legal counsel.</p> <p>Chair Ronald Morgan directed counsel to file the second arbitration.</p>		
4b.	<p>Mr. Sugarman reviewed a memo explaining recent IRS guidance issued for Normal Retirement Age for members. A member returning to work part-time following normal retirement may continue to receive a pension benefit.</p> <p>Mr. Sugarman reminded the Trustees that the annual Form 1 Financial Disclosure had a July 1 filing deadline with the local Supervisor of Elections.</p>	The administrator will forward a list of retired members to Lynx for review, and Lynx will identify and report the hours worked by any rehired members.	Open	PRC
4c.	<p>Mr. Baur provided information to the Board for the Trustees to review with the actuary and the auditor.</p> <p>Mr. Baur reported that the administrator received outstanding documentation from all retired members subject to the periodic disability review, resolving all outstanding requirements.</p> <p>Mr. Baur provided the Board with signature cards to update authorizations on file for Amalgamated Bank.</p> <p>Fritz Wermuth and Tom Zehnder will provide a proposed notice procedure that will govern the process of noticing public meetings.</p>	<p>The Trustees requested a fee comparison for similar services rendered to other plan administration clients of the Resource Centers. No further action by the Board is required.</p> <p>Blanche Sherman made a motion to execute the new authorizations. The authorizations require the signatures of two trustees or one trustee and one administrator from the offices of the Resource Centers. Ismael Rivera seconded the motion, approved by the Board 6-0.</p>	<p>Open</p> <p>Closed</p> <p>Closed</p> <p>Open</p>	<p>PRC</p> <p>None</p> <p>None</p> <p>Zehnder & Wermuth</p>

	Mr. Baur reported that the Division of Management Services provided a letter of approval for the Pension Plan.		Closed	None
4d.	The auditor was not available for review of the audited financial statements.	The Board tabled the matter to a future Agenda.	Open	CBH
5a.	The Board reviewed the interim financial statement.	The Trustees received and filed the report.	Closed	None
5b.	The Board reviewed the disbursements detailed on the Warrant dated February 23, 2016. Mr. Baur reported that the Plan received a partial refund of the retainer fee previously paid to AAA Arbitration.	Blanche Sherman made a motion to approve the Warrant dated February 23, 2016. Tangee Mobley seconded the motion, approved by the Trustees 6-0.	Closed	None
5c.	The Board reviewed the Benefit Approval summary dated February 23, 2016.	Blanche Sherman made a motion to approve the benefits on the summary dated February 23, 2016, seconded by Tangee Mobley, and passed by the Board 6-0. The Trustees discussed the payment of interest on refunds of contributions at length, since the prior Amendment 1 to the Plan included provisions that eliminated interest on member contributions. The original Amendment 1 to the Plan no longer remains in effect. Pedro Herrera explained the optional forms of benefit payment available to the members at retirement in detail.	Closed	None
7.	The Trustees previously scheduled the next quarterly meeting of the Board for August 16, 2016, with an additional meeting set for September 9, 2016 at 9 AM.	Tom Zehnder reviewed the cure progress to date. Mr. Zehnder stated that while progress may seem slow, the Board had a very sound cure process and had actually accomplished a lot. The Trustees were doing an excellent job of taking a fresh approach and considering anew each prior decision of the Board in the discussion and deliberations during the cure process.	Closed	None
8.	The Meeting adjourned at 4:18 PM.			

Respectfully submitted,

Secretary