

**TOWN OF JUPITER POLICE OFFICERS' RETIREMENT FUND**  
**MINUTES OF MEETING HELD**  
**June 25, 2003**

Chairman Nick Scopelitis called the meeting to order at 3:41 P.M. at the First Floor Conference Room, Jupiter, Florida. Those persons present were:

**TRUSTEES**

Nick Scopelitis  
James Feeney  
Mark Dobin  
Paul Agruso (3:50 P.M.)

**OTHERS**

Bob Sugarman, Sugarman & Susskind, Fund Counsel  
Margie Adcock & Nick Schiess, Pension Resource Center  
Steve Palmquist, Gabriel, Roeder, Smith & Co., Actuary  
Arthur Hidalgo, Lend Lease Rosen, Investment Manager  
Mike Simmons, Town of Jupiter  
Cheryl Grieve, Town of Jupiter  
Brigid Saia, Town of Jupiter

**PUBLIC COMMENTS**

Nick Scopelitis opened the meeting with inviting those present to address the Board with public comments. There were no public comments.

**MINUTES**

The Board reviewed the minutes of the meeting held April 24, 2003. A motion was made, seconded and passed 3-0 to approve the minutes of the meeting held April 24, 2003.

**ADMINISTRATIVE REPORT**

Margie Adcock reported on the status of Fiduciary Liability Insurance. Ms. Adcock advised that Travelers Insurance declined to provide a quote for insurance for the Fund due to an overall funding ratio below 80%, poor investment returns and other factors. She was waiting on responses from other providers and would obtain approval from Nick Scopelitis on the coverage as previously approved at the April 24, 2003 meeting.

Ms. Adcock requested direction from the Board regarding the processing of requests for a refund of contributions. Ms. Adcock stated that several of the pension boards they administer allow the refund to be processed once termination from employment is confirmed with the amount of the refund being listed on the disbursement list for the next Board meeting. Other pension boards have the refund of contributions listed as a disbursement to be approved at a board meeting with the refund being made after the meeting. However, this method would in fact delay the refund as much as one to three months depending on the frequency of the board meetings. A motion was made, seconded and passed 3-0 to allow the Administrator to process requests for a refund of contributions once an application is received and termination from employment is confirmed with the Town, with the amount of the refund to be listed on the disbursement

list for approval at the next regularly scheduled meeting. Ms Adcock advised the Board that they had just received a request for a refund of contributions from Justin Wallace and would process it accordingly.

Paul Agruso entered the meeting.

Mr. Agruso requested to discuss several issues. First, he stated that the Town was supposed to do a study comparing the pension benefits of the Town to 10 other departments in the area. He noted that it has been over 2 years and the Fund has still not received the study.

Second, Mr. Agruso stated that about six months ago a motion was passed to hire an Attorney on a contingency basis for a lawsuit against First Union, Invesco, & Merrill Lynch. Mr. Agruso stated that the Fund was under time constraints and the window was closing rapidly to file any time of lawsuit against First Union. He questioned why Mr. Stark was being asked to return records of the Fund to the Board.

Bob Sugarman entered the meeting.

Mr. Agruso made motion to leave the handling of the situation with the law firm that Board originally hired. There was no second on the motion. A very lengthy discussion ensued. Marc Dobin stated that the attorney has been contacted by fax, e-mail and by letter and has still not responded to the Board. He noted that there has obviously been a lack of effort and progress from this attorney who has had the matter since December 2002. He stated that there are no arbitration awards issued by any NASDAQ commission or any court cases involving this attorney. In addition, Mr. Stark has failed to return the records after several requests from Mr. Dobin and Mr. Sugarman.

Mr. Sugarman stated that the attorney is only one block away from his office and he has still not been able to obtain an answer from the attorney. He advised the Board that before a lawsuit can be filed, there has to be good faith on the part of the attorney that there was a violation of the law. A violation can only be determined after reviewing the contracts and records. Mr. Sugarman stated that the next step was to obtain the records that were provided to Mr. Stark and retain new council. The Board directed the Administrator to search the Plan's files for any contracts with Invesco, Merrill Lynch, and First Union and provide such contracts to Mr. Sugarman.

### **ACTUARY REPORT**

Steve Palmquist of Gabriel, Roeder, Smith & Company presented the Actuarial Valuation as of October 1, 2002. Mr. Palmquist reported that there was a large increase in the cost of the Plan, which is the result of negative investment returns and higher than assumed pay increases. He advised that the Town's contribution is \$889,807 versus last year's contribution of \$ 448,966. This equates to 19.19% of payroll versus 10.97% last year. Mr. Palmquist noted that the average pay increase was 13% which was in excess of the 7% assumption. He provided a handout of a list of 27 other police departments that showed the employer cost averaged 17% of payroll. He noted that two years ago, the average was about 10%. However, the past two fiscal years have been a disaster in the stock market. He noted that he handout showed that what was happening in this Plan was going on in other plans throughout Florida and throughout the country.

Mr. Palmquist reported that there were two new disabilities during fiscal year 2002 which is more than what they would expect in one year. He stated that they anticipate one disability every two or three years. In the history of the Plan there have only been four disabilities. Three of those have been in the last two years. The Board questioned Mr. Palmquist on this assumption in light of the recent number of disability applications in front of the Board. Mr. Palmquist stated that this assumption was based on a long term horizon and would be adjusted if necessary.

Mr. Palmquist then reviewed the asset smoothing technique that spreads the investment gains and losses over a five year time period, which minimizes the market volatility in the costing of the Plan. He noted that the investment return was a negative 1.5% versus the assumption of 8.5%. The fiscal year-to-date investment return is up about 10%, which is helpful, but the negative experience for prior years will have a negative impact on the costing of the Plan for the next year too. A motion was made, seconded and passed 4-0 to approve the October 1, 2002 Actuarial Valuation.

Mr. Palmquist then addressed the issue of the calculation of disability pensions. He provided the Board with a handout and an example of how they have been done in the past. He stated that it has been interpreted to be 60% of the last rate of pay and he obtains that last rate of pay from the Town. The Board asked direction from Mr. Palmquist on the issue of determining the date of the last rate of pay that should be used in the calculation of disability pensions. The issue is whether to define the last rate of pay to be that at the time of injury or at the time the Participant goes off payroll. Mr. Palmquist reported that the Plan has already been costed to use the pay at the time of injury, which is most likely a higher amount. A lengthy discussion ensued regarding the determination of the pay to be used in the disability benefit calculation and what would be the fairest for the Participant. A motion was made, seconded and passed 4-0 that Section 15-274-3 of the Plan which states that the benefit is to be 60% of the compensation at the "time of disability" is to be interpreted as meaning at the time of injury or the time the Participant goes off payroll, whichever is greater, to be applied retroactively and prospectively to all disability retirees in accordance with the advice of the Actuary who stated that this is how the benefit has been historically costed out. The Board directed Mr. Palmquist to recalculate the retroactive adjustments for all prior disability pensions.

Mr. Palmquist then noted that there are some Chapter 185 minimum benefits that are currently not included in the Plan and stated that there is a reserve of \$81,000 for these benefits. Mr. Sugarman provided the Board with a draft Ordinance to meet these minimum benefit requirements. A discussion arose as to the effective date of the Ordinance and the Board agreed that the Ordinance should be effective December 1, 2002. A motion was made, seconded and passed 4-0 to approve the Ordinance as drafted with an effective date December 1, 2002.

The Trustees questioned Mr. Palmquist on the interest rate paid on the DROP accounts. Mr. Palmquist discussed how different pension plans handle the rate of interest on such accounts.

A question arose whether or not the recent motion on changing the definition of compensation for disability serves to resolve the pending lawsuit of several disability

retirees. Mr. Sugarman advised that the motion does provide the relief that was being sought with the exception of the O'Connor case. With respect to the O'Connor case that can only be resolved through an Ordinance change, which change has already been submitted to the Town.

Mr. Palmquist departed the meeting.

### **ATTORNEY REPORT**

Mr. Sugarman reported on the status of Earl Smith's Disability Application. He stated that there was difficulty in obtaining records from Mr. Smith's physicians despite numerous requests. The IME was scheduled for last week and he has not yet received the report. Once the report is received, Mr. Sugarman will prepare a book of Mr. Smith's records which will be sent to the Board and an informal hearing will be scheduled. Frank Alberar, Attorney for Mr. Smith, introduced himself and made a formal notice of appearance. He requested a copy of the final report as well as all further communication regarding Mr. Smith to be sent to him.

Mr. Sugarman reported on the background of negotiations with Lend Lease Rosen. He stated that the negotiations have been successful and that a contract has been worked out and is ready for Board approval. However, there were some questions that arose that made it appear that Lend Lease Rosen was going out of the real estate business. Mr. Sugarman requested a representative from Lend Lease Rosen to address the Board and explain the situation. Arthur Hidalgo appeared before the Board. He introduced himself and stated that he has been with Lend Lease Rosen for 4 years. He reported that although there was a company re-organization, Lend Lease Rosen was the real estate side of the company and would remain unaffected from the merger of the equity side with Morgan Stanley. He stated that for the one year, their investment return is 5.08% and that they have averaged 16.81% since inception. When questioned as to anticipated returns, Mr. Hidalgo stated that he expected 6-8% in the short term and 8-10% in the long-term. A motion was made, seconded and passed 4-0 to approve the contract with Lend Lease Rosen. The contract was signed and the Board directed the Administrator to mail a copy to Burgess Chambers to effect the transfer of money.

Arthur Hidalgo departed the meeting.

Mr. Sugarman reported on the status of the Commission Recapture Agreements. Contracts with Lynch, Jones, and Ryan and also Capital Institutional Services were ready for execution. The Chairman executed the Agreements.

Mr. Sugarman presented a proposed Proxy Voting Guidelines to the Board. He reviewed the importance and purpose of the procedures. He noted that they were prepared using the procedures utilized by the AFL-CIO. A motion was made, seconded and passed 4-0 to accept the Proxy Voting Guidelines. The Board asked the Administrator to forward the Guidelines to the Investment Mangers and the Investment Monitor.

Mr. Sugarman presented a proposed Disability Determination and Review Procedure to the Board. He asked the Board to review the Procedure so that it could be discussed at the next meeting.

Mr. Sugarman then reviewed the procedures for medical review. He stated that he preferred using the University Of Miami Department Of Rehabilitative Medicine because they specialize in rehabilitative medicine, it is a teaching hospital, and is outside of the referral pattern of local physicians. Mr. Sugarman reported on the status of the disability applications. He noted that Katherine Berrish was scheduled for an IME on July 2, 2003 and the IME for Earl Smith as well as Raymond Montrois had recently been completed.

The Board questioned Mr. Sugarman as to whether or not the additional retainer he is receiving for monthly meetings will be eliminated once the meetings return to a quarterly schedule. Mr. Sugarman replied that the additional workload merited the additional retainer and that the three outstanding disability applications and other issues will require monthly meetings for the near future.

Mr. Sugarman reported on the status of Jill Rosco's determination of benefits and advised the Board that Ms. Rosco's Attorney had not yet provided a copy of the Long-Term Disability Policy as requested the meeting held April 24, 2003. Mr. Sugarman noted that he received a letter from Ms. Rosco's attorney requesting that her payments start on July 1, 2003. With the question of definition of compensation now resolved, the Board discussed the date to commence Ms. Rosco's payments and the issue of any offsets. There was a lengthy discussion on the matter. Mr. Sugarman recommended the Board grant the request made by Ms. Rosco's attorney. A motion was made, seconded and passed 4-0 to commence Jill Rosco's disability benefits on July 1, 2003 as her attorney requested and to pay the maximum amount payable in coordination with her long-term disability policy retroactive to the date of disability.

Mr. Sugarman then addressed the request of the Town to hold a workshop on the matter of re-writing the Ordinance. He stated that he believed that it would be best to schedule the workshop after the passage of the Ordinances submitted to the Town but not yet adopted.

Mr. Sugarman advised that he sent a letter to Patricia Shoemaker responding to her letter questioning the supplemental benefit.

Mr. Sugarman reported that Ron Cohen's office mailed a Stipulation of Council naming Mr. Sugarman as the Attorney in the O'Connor suit, which hopefully will settle.

Mr. Sugarman provided the Board with a Legislative update.

Michael Simmons reported that he had received a letter from Mr. Sugarman referring to the O'Connor Ordinance, but noted that the proposed Ordinance was not included in the letter. Mr. Sugarman noted that the Ordinance was already written and that he would forward it to Mr. Simmons.

Mr. Sugarman reported that recent legislation allows a Board to adopt their own travel expense and meal reimbursement policy. It was noted that with current allowances in Chapter 112, Florida Statutes, being so low, Trustees find themselves going out-of-pocket for meals while attending conferences and schools. There was a lengthy discussion on what would be the appropriate amount for meal reimbursement. A motion was made, seconded and passed 4-0 to set a maximum meal reimbursement rate of \$50 per day.

**DISBURSEMENTS**

Ms. Adcock reviewed the disbursement list. There was a discussion on the invoice from Invesco. A motion was made, seconded and passed 4-0 not to pay the invoice from Invesco at this time. A motion was made, seconded and passed 4-0 to approve the listed disbursements with the exception of the invoice from Invesco.

**OTHER BUSINESS**

Mr. Sugarman commented on the Town's Resolution 58-03 which deals with attendance and removal of board members. He noted that while the Resolution may allow the replacement of a Trustee who misses three or meetings, it is trumped by State law which does not allow the Town to remove the two employee Trustees or the fifth Trustee. The two employee Trustees can only be removed if they die, resign, are no longer an employee, or are removed by the Governor. The fifth Trustee can only be removed if they die, resign or is removed by the Governor. However, the Town's elected Trustees can be removed at any time by the Town and this Resolution is really for them. Mr. Sugarman did advise that regular attendance is required by all Trustees and it may be a breach of fiduciary duty to regularly miss meetings. All Trustees are responsible for the Board's decisions, even if they are not present when that decision was made.

Ms. Adcock stated that the Investment Monitor had provided her with an Investment Policy Statement for adoption by the Board. Mr. Sugarman stated that he wanted to make sure that his office had approved the Statement prior to the Board's adoption. This matter will be addressed at the next meeting.

There being no further business and the next regularly scheduled meetings being set for Wednesday, July 23, 2003 at 4:00 P.M. and Wednesday, August 20, 2003 at 9:00 A.M, a motion was made, seconded and passed to adjourn the meeting at 7:30 P.M.

Respectfully submitted,

James Feeney, Secretary