

**TOWN OF JUPITER POLICE OFFICERS' RETIREMENT FUND**  
**MINUTES OF MEETING HELD**  
**October 20, 2003**

Chairman Nick Scopelitis called the meeting to order at 9:12 A.M. at the Town Council Chamber, Jupiter, Florida. Those persons present were:

**TRUSTEES**

Nick Scopelitis  
James Feeney  
Marc Dobin  
Todd Wodraska  
Peter Alfele

**OTHERS**

Bob Sugarman, Sugarman & Susskind, Fund Counsel  
Margie Adcock & Nick Schiess, Pension Resource Center  
Steve Settle, Participant  
Earl Smith, Participant and Legal Counsel Frank Albear  
Ray Montrois, Participant  
Cheryl Grieve, Town of Jupiter  
Mike Simmons, Town of Jupiter  
Brigid Saia, Town of Jupiter

**PUBLIC COMMENTS**

Mr. Scopelitis invited those present to address the Board with public comments. There were no public comments.

**MINUTES**

The Board reviewed the minutes of the meetings held September 22, 2003. Mr. Feeney made a motion approve the minutes of the meeting held September 22, 2003. Mr. Alfele seconded the motion, approved by the Trustees 5-0.

**EARL SMITH DISABILITY APPLICATION**

Bob Sugarman stated that the Attorney for Earl Smith has requested to be moved up on the agenda due to other commitments that he has. The Board was agreeable to moving the matter up on the agenda. Mr. Sugarman reminded the Board that Earl Smith's Disability Application had been originally denied. He noted that Mr. Smith's Independent Medical Evaluation had stated that Mr. Smith had not yet reached maximum medical improvement. Mr. Smith then appealed the Board's decision to deny his Application. At that time, the Board reopened the matter and determined it would be prudent to send Mr. Smith for another Independent Medical Exam with a different physician. Mr. Sugarman's office received a letter from Mr. Smith's Attorney, Frank Albear, in which Mr. Smith disagreed with the Board's request for a second Independent Medical Examination. Mr. Albear stated in his letter that while the Independent Medical Exam does not conclude maximum medical improvement, sufficient time has elapsed to rule out several of the recommended treatments and that Mr. Smith should be re-evaluated by Dr. Sherman who performed the original examination. Mr. Sugarman discussed the disability review procedures and the various options available to the Board.

Frank Albear entered an appearance on behalf of Earl Smith. He stated that the Board has the power to grant Mr. Smith's Disability Application with the evidence presently before the Board. Mr. Albear reviewed the three possible procedures that Dr. Sherman stated

were alternative treatments that could be tried before concluding that Mr. Smith was in fact at maximum medical improvement. The first procedure, nucleoplasty, had been performed but was unsuccessful. The second procedure, comprehensive pain management, had not been tried but Mr. Albear stated that patients with Mr. Smith's circumstances usually do not respond well to the treatment. The third treatment was considered experimental, which Mr. Albear believed Mr. Smith should not be required to have performed. Mr. Albear stated that Mr. Smith was willing to be re-evaluated by Dr. Sherman who performed the original examination.

Mr. Sugarman agreed that Mr. Smith should not be expected to undergo the experimental procedure. With regards to the nucleoplasty, Mr. Sugarman noted that the additional medical reports were needed for the records. He then discussed whether Mr. Smith could possibly receive relief from the pain management treatment. Mr. Sugarman noted that another IME at this point would likely be premature since the pain management treatment has still not been attempted. There was a lengthy discussion on the matter and it was determined that the pain management program was a reasonable treatment for Mr. Smith that must be considered before granting the disability pension under the provisions of the Plan.

A discussion ensued to the pain management treatment and who would bear the expense. Mr. Sugarman recommended that Mr. Albear file a claim with the workers' compensation carrier to pay for the pain management. Mr. Albear noted that the workers' compensation physician, Dr. Rasso, had already determined that Mr. Smith was at maximum medical improvement and was certain that workers' compensation would not pay for the treatment. If denied, Mr. Sugarman recommended that Mr. Albear then file an appeal. If the appeal is denied, Mr. Sugarman then recommended providing Dr. Rasso's report with the reasons for the denial along with the records on the failed nucleoplasty procedure to Dr. Sherman for further review. The Board agreed and Mr. Albear agreed to file the claim with workers' compensation and an appeal if necessary.

### **STEVEN SETTLE DISABILITY APPLICATION**

Mr. Sugarman provided an introduction regarding the Disability Application for Steven Settle. He noted that at this informal stage, the Board could grant the request for a disability pension; deny the request for a disability pension where the Participant could request a formal hearing; or defer the determination of disability and request additional information or medical evaluations. Mr. Sugarman further advised the Board that the disability applicant must meet the qualifications of disability as set forth in the Ordinance. He reviewed the specific questions that the Board would need to answer. If all the qualifications have been met and all the questions were answered in the affirmative, then the Board could grant the disability.

The Board reviewed the information provided to them regarding the Disability Application for Mr. Settle. It was noted that this was an Application for a service related disability. Mr. Settle appeared before the Board. Mr. Settle provided the Board with the circumstances of his injuries and medical condition. Mr. Settle stated that he had an operation on his right shoulder but there has been no improvement. He is no longer on any weights as it is much too painful. The Trustees, having reviewed the medical evidence individually prior to the meeting, discussed in great detail Mr. Settle's medical condition, physicians evaluations, Independent Medical Evaluation, and other factors regarding his Disability Application. The Board noted that in his Independent Medical

Examination, Dr. Sherman was unable to render a determination as to whether Mr. Settle had reached maximum medical improvement because he did not have a copy of the report of the MRI completed on Mr. Settle's knee and hip. The Board requested Mr. Settle to make the necessary arrangements to provide a copy of the MRI report to Dr. Sherman for review. Mr. Dobin made a motion to table the decision of Mr. Settle's Disability Application pending receipt of a revised IME from Dr. Sherman based on the MRI report. Mr. Feeney seconded the motion, approved by the Trustees 5-0.

### **RAYMOND MONTROIS DISABILITY STATUS**

Ray Montrois appeared before the Board regarding a previously submitted request to change the status of his pension from a non-duty disability pension to a duty-related pension. Mr. Montrois discussed excerpts from his medical records that indicated that his injuries were actually job related. Mr. Sugarman discussed the medical records received from Dr. Sherman and Dr. Suite noting that there was sufficient evidence from which the Board could conclude that Mr. Montrois' disability is service connected. He noted that there would be no additional cost to the Fund and only the manner in which the 1099 is reported would need to be changed. The status change would benefit Mr. Montrois for tax purposes. The Trustees discussed the medical reports noting that Dr. Sherman stated that Mr. Montrois' disability was job related. Mr. Feeney made a motion to change the status of Mr. Montrois' disability retroactively to that of duty-related based upon the findings of Dr. Sherman that his disability was service connected. Mr. Wodraska seconded the motion, approved by the Trustees 5-0.

### **ATTORNEY REPORT**

Mr. Sugarman reported on the matter involving the commencement date of Jill Rosco's disability pension. He noted that the Town indicated that her employment was terminated on October 10, 2001. However, she stopped getting pay on August 6, 2001. Therefore, after careful review of her payroll records, Mr. Sugarman has determined that Jill Rosco's service related disability pension should be revised to be effective on August 7, 2001.

### **ADMINISTRATIVE REPORT**

Margie Adcock presented the disbursements. There was a discussion on the invoice from Invesco. Mr. Dobin made a motion to table the invoice from Invesco. Mr. Alfele seconded the motion, approved by the Trustees 5-0. Mr. Dobin noted that he did not drive to the FPPTA Trustees School and would cut a check back to the Fund for the advancement in mileage. There was the discussion on the invoice from Gabriel, Roeder, Smith and Company. The Board determined that the amount of \$473 for the additional information needed by the Town on the impact statement should be stricken due to poor work product. Mr. Dobin made a motion to pay Gabriel, Roeder, Smith and Company \$778 and strike the amount of \$473. Mr. Feeney seconded the motion, approved by the Trustees 5-0. Mr. Dobin made a motion to approve the listed disbursements as amended. Mr. Feeney seconded the motion, approved by the Trustees 5-0.

### **OTHER BUSINESS**

The Board inquired about the status of the contract with Buck Consultants. Mr. Sugarman stated that he was still working on the contract with Buck Consultants.

The Trustees discussed obtaining general liability insurance to protect the Fund from the liability of any damages incurred by the Trustees while traveling for business on behalf of the Fund. Mr. Sugarman recommended that the Board should obtain this insurance with a non-owned automobile endorsement with a \$3 million amount noting the exposure of the Fund's assets. There was also discussion on what would happen if a Trustee was injured while traveling for business on behalf of the Fund. Mr. Sugarman stated that the police officers would most likely be covered by workers' compensation. He stated that the Board should ask the workers' compensation carrier if they would cover the Trustees while on Board business. If yes, then there would be no concern. If no, then he recommended the Board obtain travel accident insurance for all of the Trustees. The Board directed the Administrator to obtain quotes for a general liability policy and travel accident insurance.

The Board discussed providing each Trustee with a shirt labeled with the name of the Fund, which was noted as very popular among the Trustees of other Funds who were in attendance at the recent FPPTA Trustees School. Mr. Sugarman advised the Board that this was a legitimate expense as it provided recognition and networking opportunities for the Trustees with trustees of other funds. Mr. Dobin made a motion to approve the purchase of shirts for the Trustees labeled with the name of the Fund. Mr. Feeney seconded the motion, approved by the Trustees 5-0. The Board directed the Administrator to obtain quotes for these shirts through the vendor Country Tees who already had the shield of the Police Department.

The Trustees discussed the preparation of a Trustee Reference Handbook which would contain all the relevant documents and policies regarding the Fund. Mr. Scopelitis provided the Board with a memo itemizing the contents he would like to see in the handbook. The Trustees discussed those items as well as the addition of some further items. It was noted that the Summary Plan Description was due for republication in May 2004, which Buck Consultants would prepare. It was also noted that some of the Trustees would like to receive monthly custodial statements and the Administrator was directed to have the Custodian provide the statements to Peter Alfele, Todd Wodraska, and Marc Dobin. Mr. Alfele made a motion to authorize the necessary expenses for the Administrator to prepare the Trustee Reference Handbook. Mr. Dobin seconded the motion, approved by the Trustees 5-0.

There being no further business and the next regularly scheduled meeting being set for Monday, November 24, 2003 at 1:00 P.M., the meeting was adjourned at 12:07 P.M.

Respectfully submitted,

James Feeney, Secretary