

**TOWN OF JUPITER POLICE OFFICERS' RETIREMENT FUND**  
**MINUTES OF MEETING HELD**  
**November 18, 2004**

James Feeney called the meeting to order at 4:16 P.M. at the Town Council Chambers, Jupiter, Florida. Those persons present were:

**TRUSTEES**

James Feeney  
Peter Alfele  
Marc Dobin

**OTHERS**

Bob Sugarman, Sugarman & Susskind, Fund Counsel  
Nick Schiess, Pension Resource Center  
Burgess Chambers, Burgess Chambers & Associates  
Jose Fernandez, Mellon Consultants  
Brigid Saia & Cheryl Grieve, Town of Jupiter  
Joel Bernstein, Goodkind Labaton Rudoff & Sucharow LLP  
David George, Lerach Coughlin Stoia Geller Rudman & Robbins, LLP  
Robert Axler and Teresa Webb, Pomerantz Haudek Block Grossman Gross LLP  
Other Visitors

**PUBLIC COMMENTS**

James Feeney invited those present to address the Board with public comments. There were no public comments.

**INVESTMENT MONITOR REPORT**

Burgess Chambers appeared before the Board to discuss the investment performance of the portfolio. The investment return for the quarter ending September 30, 2004 was 1.0%, which equaled the benchmark of 1.0%. He discussed the performance of the individual investment managers for the quarter ending September 30, 2004. The return for Private Capital Management was -0.7% versus -1.9% for the index. Mr. Chambers reviewed the compliance checklist noting that all items were in compliance with the Plan's investment objectives with the exception that the Plan has not achieved a three-year rolling return of 8.5%.

Mr. Chambers then discussed the investment performance for the fiscal year ending September 30, 2004. The total portfolio earned \$1.3 million for the fiscal year and had a market value in the amount of \$15,491,539 as of September 30, 2004. Mr. Chambers reported that the investment return for the fiscal year was 10.1%, which exceeded the actuarial assumption, however, lagged the benchmark of 11.1%. The total equity performance was 16.1% versus 14.3% for the benchmark. The investment return for REIT's was 23.7%. He noted that the weakest area of performance was for the bond manager Sawgrass Asset Management, which was attributable to a defensive posture of the portfolio in the anticipation of rising interest rates and the absence of BBB quality

bonds in the portfolio. He noted that the allocation to fixed income was 30% and the performance for the fiscal year was 2.1% versus 3.4% for the index.

Pursuant to the direction of the Board at the last meeting, Mr. Chambers reported that he had researched the addition of BBB quality bonds to the fixed income portfolio and also high-yield bonds as an alternative investment for the Plan. He noted that Sawgrass Asset Management manages only high quality A, AA, and AAA bonds and was not well equipped to manage BBB quality bonds. He recommended that the Board not impose the management of BBB bonds on Sawgrass Asset Management and advised that over a complete market cycle that the addition of BBB bonds would add very little return to the portfolio and add unnecessary risk. He then discussed high yield bonds noting that due to the timing within the market cycle most of the returns have already been achieved. He also noted that the amount of the allocation would not be sufficient to hire an individual manager and therefore the only option to the Plan would be a mutual fund. Mr. Chambers recommended against the implementation of a high yield bond mandate. Marc Dobin questioned Mr. Chambers whether he was comfortable with the defensive posture of Sawgrass Asset Management and Mr. Chambers responded that the strategy was sound, however, was prematurely implemented.

Mr. Chambers advised that valuations on REIT's were high due to recent excellent performance and recommended that the allocation in REIT's be reduced from 9% to 5% and the proceeds be invested pro-rata among Private Capital Management and C.S. McKee. Peter Alfele questioned Mr. Chambers regarding the \$1,467,099 cash allocation in the portfolio. Mr. Chambers explained that the majority of the cash balance was held in the Plan's disbursement account and likely a result of accumulated City and Participant contributions. A lengthy discussion arose regarding the operating cash requirements of the Plan and it was noted that monthly benefits were approximately \$60,000 and quarterly expenses were approximately \$70,000. The Board directed the Administrator to prepare a budget for the operating expenses of the Plan. Mark Dobin made a motion to delegate cash management to Peter Alfele, in consultation with the Investment Consultant and Administrator. Peter Alfele seconded the motion 3-0. Mark Dobin made a motion to reduce the REIT allocation to 5% and invest the proceeds and excess cash to rebalance the portfolio pursuant to the recommendation of the Investment Consultant. Peter Alfele seconded the motion, approved by the Trustees 3-0

Mr. Chambers respectfully requested that the Board consider an increase in the investment consulting fees from \$12,000 to \$15,000 annually. He noted that the addition of investment managers had increased the monitoring services performed and also the performance of the portfolio had improved since his firm had been retained as the Investment Consultant. Peter Alfele made a motion to amend the contract for consulting services increasing the investment consulting fees from \$12,000 to \$15,000 yearly effective October 1, 2004 and authorizing the acting chairperson to ratify the contract amendment. Marc Dobin seconded the motion, approved by the Trustees 3-0. The Board requested that Mr. Chambers provide the investment performance reports to the Trustees in advance of the meetings.

## **SECURITIES MONITORING SERVICES**

Bob Sugarman provided the Board with an overview of security monitoring services, noting that securities monitoring has become a fiduciary duty. He recommended that the Board retain several firms and advised that there was not a limit on the number of firms that could be retained. Mr. Sugarman explained that the private securities litigation reform law passed in 1995 afforded institutional investors new responsibilities and opportunities to recover losses from securities fraud by acting as lead plaintiff in cases of securities fraud and other corporate misconduct.

Nick Scopelitis joined the meeting via teleconference. Mr. Sugarman explained that because a physical quorum was present, Mr. Scopelitis was permitted to participate in actions before the Board.

Joel Bernstein appeared before the Board on behalf of Goodkind Labaton Rudoff & Sucharow LLP to discuss securities monitoring services offered by the firm. He explained that arrangements would be made to provide his firm the holdings within the portfolio from the Plan's Custodian. The holdings would be continuously monitored and in the event of corporate fraud, his firm would provide a report to the Board. The firm would then also provide a recommendation to the Board provided that an opportunity exists for a legal action.

David George appeared before the Board on behalf of Lerach Coughlin Stoia Geller Rudman & Robbins, LLP to discuss securities monitoring services offered by the firm. He noted that the firm was the largest class action law practice in the United States, which was local and had recovered billions of dollars for clients. If retained by the Board, his firm would monitor the portfolio and provide the Board with quarterly reports identifying legal actions involving any assets of the Plan.

Robert Axler and Teresa Webb appeared before the Board on behalf of Pomerantz Haudek Block Grossman Gross LLP to discuss securities monitoring services offered by the firm. Mr. Axler noted that the firm had several offices and represented other pension plans in the state of Florida. He also noted that the monitoring program monitors for both corporate fraud and negligence.

The Board discussed the proposals presented by the securities monitoring firms. It was noted that the firms provide securities monitoring services on a contingency fee basis and therefore there was not any initial cost to the Plan to retain their services. A question arose regarding if more than one securities monitoring service brought the same case before the Board. Mr. Sugarman advised that the Board could then choose a firm based either upon the merit of the case or the firm that first brought the case before the Board. Mr. Sugarman advised the Board that securities monitoring services were also offered by another firm, Milberg Weiss Bershad & Schulman LLP. Marc Dobin made a motion to engage the services of Lerach Coughlin Stoia Geller Rudman & Robbins LLP, Goodkind Labaton Rudoff & Sucharow LLP, Pomerantz Haudek Block Grossman Gross LLP, and

Milberg Weiss Bershad & Schulman LLP. Peter Alfele seconded the motion, approved by the Trustees 3-0.

The conference teleconference connection with Nick Scopelitis terminated for unknown reasons and was unable to be reconnected.

The meeting adjourned and 3:37 P.M. and reconvened at 3:43 P.M.

#### **MELLON CONSULTANTS- JOSE FERNANDEZ**

Jose Fernandez appeared before the Board on behalf of Melon Consultants to discuss the outstanding invoices for actuarial services since the hiring of the Actuary. He provided the Board with an itemized list of services performed. He noted that the contract stipulated that the Board be provided an estimate for services prior to the engagement of services, however, certain services required immediate attention between Board meetings. A discussion ensued regarding the establishment of a Board policy to approve the engagement of actuarial services for matters involving the ongoing operation of the Plan between meetings. Marc Dobin made a motion to authorize Peter Alfele to approve the engagement of actuarial services up to the aggregate amount \$5,000 between meetings upon receipt of a written estimate from the Actuary. Peter Alfele seconded the motion, approved by the Trustees 3-0. The Trustees discussed the outstanding invoices for actuarial services performed and Mr. Fernandez offered to discount the outstanding invoices 25%. Peter Alfele made a motion to authorize the payment of all outstanding invoices for actuarial services with the 25% discount. Marc Dobin seconded the motion, approved by the Trustees 3-0.

Mr. Fernandez discussed the preparation of Annual Benefit Statements for the active Participants and estimated the fees to be in the amount of \$2,000. He noted that the statements would be prepared after the completion of Actuarial Valuations. Peter Alfele made a motion to authorize the Actuary to prepare Annual Benefit Statements on a yearly basis at a cost in the amount of \$2,000. Marc Dobin seconded the motion, approved by the Trustees 3-0.

Jim Feeney questioned Mr. Fernandez in the event that the a Participant retirees after the effective date of the proposed Ordinance Amendment adopting the Chapter 185 minimum benefits whether total cash remuneration would be the basis of calculating the Participant's final average salary. Mr. Fernandez replied that total cash remuneration would be the basis for calculating final average salary after the effective date that the Ordinance Amendment is adopted.

A discussion arose regarding whether the actuarial assumption of an 8.5% investment return was an appropriate assumption rate. Mr. Fernandez noted that many Plans he represented had reduced their assumption rates to 8.0% or 7.5%. Bob Sugarman advised the Board to rely upon the advice of the Actuary for recommendations in changes of actuarial assumptions and in the event a change in assumptions is warranted that the Actuary provide a written notification of his recommendations to the Board.

Mr. Fernandez discussed the Town's request for the restated required contributions for the 2005 fiscal year and estimated the fees for the preparation of the restated contributions to be the amount of \$700. Peter Alfele approved the fees in the amount of \$700 for the actuarial services required to determine the Town's funding requirements for the 2005 fiscal year.

### **DISBURSEMENTS**

The Trustees reviewed the disbursements presented for approval by the Administrator. Peter Alfele made a motion approve the disbursements as presented with the exception of those invoices from Mellon Consulting for actuarial services, which were payable at 75% of the face amount of the invoices. Marc Dobin seconded the motion, approved by the Trustees 3-0.

### **MINUTES**

The Board reviewed the minutes of the meeting held August 2, 2004. Peter Alfele made a motion to approve the minutes of the meeting held August 2, 2004. Marc Dobin seconded the motion, approved by the Trustees 3-0.

### **BENEFIT IMPROVEMENTS**

Brigit Saia reported that the Ordinance Amendment adopting technical changes to bring the Plan into compliance with State Statues was scheduled for a first reading by City Council in the month of December 2004. She advised that the proposed Ordinance Amendments adopting the Chapter 185 minimum benefits and providing for the purchase of prior service credit for military service and prior law enforcement service were both benefits to be considered in collective bargaining between the Town and Union.

### **ATTORNEY REPORT**

Bob Sugarman reported that a recently terminated DROP Participant, Charles Bottger, had contacted the Administrator regarding his eligibility for the additional supplemental benefit of five dollars per month for each year of credited service. He advised the Board that Mr. Bottger entered the DROP prior to the effective date of the additional supplemental benefit and therefore was not eligible for the benefit.

Mr. Sugarman provided the Board with an update on the lawsuit filed by four disability retirees challenging the manner in which the benefits had been calculated claiming that all their compensation was not included for the determination of benefits. He noted that the Town had not been consistent in the calculation of compensation and that the plaintiff's benefits had been calculated differently than other disability pensions. Mr. Sugarman recommended that the Board authorize him to discuss with the plaintiff's attorney a settlement offer and also determine a consistent manner in performing benefit calculations in the future. He requested from the Board to be advised of the types of

compensation to be included in the calculation of disability benefits. A lengthy discussion arose regarding the different types of pay to be included as compensation for the purposes of calculating disability pensions. A question arose regarding the current methodology used by the Actuary to calculate disability benefits. Nick Schiess noted that the Board had already established policy that provided for the calculation of benefits based upon the greater of the compensation at the date of injury or the date of termination. He explained that the Actuary annualizes the rate of pay for a one month period preceding the date of disability and date of termination and includes incentive pay and shift differential. Mr. Sugarman noted that salary was a defined term while compensation was undefined. A lengthy discussion arose regarding the various types of pay and it was noted that overtime was clearly compensation. It was noted that overtime had not been included in the recent benefit calculations of disability benefits. Safety incentive was not considered as compensation. Shift differential, incentive pay, and premium pay was considered as compensation. After defining the types of pay that constituted compensation, the Board discussed the look back period for compensation and agreed that disability benefits would be calculated based upon the greater of the compensation for two pay periods preceding the date of injury or two pay periods preceding the date of termination. It was noted that the Ordinance had been mistakenly revised from “compensation” to “compensation salary”. James Feeney noted that term “compensation salary” may conflict with the Union contract and stated it was important to research the origin of the revision and correct the terminology within the Ordinance as soon as possible.

Mr. Sugarman reported that the Ordinance Amendment adopting technical changes to bring the Plan into compliance with State Statutes contained a provision that afforded Participants the option to authorize voluntary deductions for insurance, child support, and alimony without a court order. He explained that he frequently assisted Participants and their Attorneys with the division of pension benefits as a marital asset at no cost to the Plan. To consolidate the service, he offered to provide a divorce kit containing all the appropriate documents and statutes and then discuss the matter with the Participants and family lawyers via teleconference. If additional consultation was requested, he would provide the additional consultation at the rate of \$300 per hour provided that Board had did not object. He explained that the voluntary deductions would increase the administration costs of the Plan and advised the Board to consider whether it was appropriate to charge the Participants a small one-time fee to cover the additional costs. After further discussion, the Board decided that a one-time fee of \$100 was appropriate to charge Participants for the implementation of a voluntary deduction from their pension benefits.

Mr. Sugarman discussed the laws relating to gifts received by Trustees. Trustees cannot accept gifts in excess of \$100 or that is believed to a bribe. Gifts valued under \$25 are not reportable by the donor or recipient and gifts valued over \$25 but less than \$100 are reportable by the donor.

## **ADMINISTRATIVE REPORT**

Nick Schiess discussed the advantages of scheduling quarterly Board meetings and provided alternative meeting schedules coinciding with Mr. Sugarman's schedule for other meetings in the area. He noted that special meetings could be scheduled between the quarterly meetings as the need arises. The Board agreed and scheduled quarterly meetings on the dates of February 24, 2005, May 26, 2005, August 15, 2005, and November 21, 2005.

Mr. Schiess provided the Board with a list of upcoming educational conferences.

## **OTHER BUSINESS**

The Board tabled the review of the medical conditions of the individual disability retirees to determine whether the permanence of their conditions warranted an exclusion from the requirement of the Certificate of Medical Examination.

There being no further business, the meeting was adjourned at 5:25 P.M.

Respectfully submitted,

James Feeney, Secretary