CITY OF PORT ORANGE
POLICE OFFICERS' PENSION BOARD
MAY 16, 2022

The Port Orange Police Officers' Pension Board of Trustees held its quarterly meeting on Monday, May 16, 2022 in the Police Department Training Room, 4545 Clyde Morris Boulevard, Port Orange, Florida.

MEMBERS PRESENT:	Chairman Warren Carman (fifth member) William Proctor (police member) Andrew McKay (police member) Brian Cobb (resident member) Drew Bastian (resident member)
CONSULTANTS:	Ken Harrison, Board Attorney – *Sugarman & Susskind** Caroline Quill, Attorney – *Sugarman & Susskind** Madison Levine, Attorney – *Sugarman & Susskind** Tyler Grumbles, Investment Consultant – *AndCo* Chad Little, Actuary – *Freiman Little Actuaries* Karan Rounsavall, Plan Administrator

Chairman Carman called the meeting to order at 2:00 p.m. A quorum was in attendance. *The attorneys attended the meeting via video conferencing. (Zoom hosted by City of Port Orange)

APPROVAL OF MINUTES

Member Bastian moved to approve minutes of quarterly meeting February 14, 2022 as submitted. Member McKay seconded the motion; it carried unanimously.

OFFICER AND TRUSTEE REPORTS - None

CONSENT AGENDA

A. Approve plan expenditures as follows:
   1. Sugarman, Susskind, et al – monthly retainer for February 2022 - $2,600. *Recommendation:* Ratify payment.
   2. Sugarman, Susskind, et al – monthly retainer for March 2022 - $2,600. *Recommendation:* Ratify payment.
   3. Sugarman, Susskind, et al – monthly retainer for April 2022 - $2,600. *Recommendation:* Ratify payment.
   4. Plan Administrator Karan Rounsavall – monthly fee (February 2022, March 2022 and April 2022) - $9,000. *Recommendation*: Ratify payments.
   5. Freiman Little Actuaries – contracted actuarial services from April 29, 2021 through February 10, 2022 - $25,205. *Recommendation*: Ratify payment.
   6. Freiman Little Actuaries – supplemental actuarial services from April 29, 2021 through February 10, 2022 - $1,578. *Recommendation*: Ratify payment.
   7. James Moore & Co. – 2021 Audit (final billing) - $5,000. *Recommendation*: Ratify payment.
   8. Sugarman, Susskind, et al – reimburse cost for medical records (Sydeski disability) - $161. *Recommendation*: Ratify payment.

9. Sugarman, Susskind, et al – reimburse cost for independent medical exam (Sydeski disability) - $1,400. *Recommendation*: Ratify payment.
10. Sugarman, Susskind, et al – reimburse cost for medical records (Sydeski and Starling disability) - $124.02. *Recommendation*: Ratify payment.
11. Halifax Health – medical records for Starling disability - $225.25. *Recommendation*: Ratify payment.
12. AndCo Consulting – investment consulting and performance monitoring services for quarter ended March 31, 2022 - $10,625. *Recommendation*: Ratify payment.
13. First State Trust Company – custodial services for quarter ended March 31, 2022 - $4,625. *Recommendation*: Ratify payment.

Member Bastian moved to ratify plan expenses as recommended. Member Proctor seconded the motion which carried unanimously.

B. Acknowledge rollover of member contributions for James Dykstra (non-vested member) in the amount of $14,085.72.

Plan Administrator Rounsavall advised that Officer Dykstra received and signed the *"special tax notice."*

Member Cobb moved to acknowledge rollover of member contributions for Officer Dykstra as presented. Member Bastian seconded the motion; it carried unanimously.

CONSULTANT REPORTS

Tyler Grumbles – *AndCo Consulting* (Investment Consultant)

1. Investment Performance Report for quarter ended March 31, 2022

Mr. Grumbles presented the performance report and economic commentary for the quarter ended March 31, 2022. Equity markets experienced significant pullbacks during the quarter driven by sustained inflation, the conflict in Ukraine, supply chain issues, and Covid. Growth-oriented stocks underperformed value stocks as concerns about future economic growth increased. Bond markets were also broadly negative due to inflationary concerns and expectations that the Federal Reserve would aggressively raise interest rates. Alternative investments (real estate, infrastructure, floating bonds) provided downside protection for the portfolio. In fact, real estate holdings were positive by seven to ten percent for the quarter. In particular, the Stockbridge Smart Markets Real Estate Fund had an outstanding quarter with a return of 10.73 percent. Mr. Grumbles also advised that the pension fund received its $1.5 million capital call for private equity during the quarter.

Despite the volatility, Mr. Grumbles did not recommend any changes in portfolio strategy and reminded board members this was a long-term investment. All asset classes were within their target ranges; no rebalancing was necessary.

Total market value as of March 31, 2022 was $56,346,726 down from $59,042,820 for the previous quarter ended December 31, 2022. On a percentage basis, the composite portfolio was down -4.67 percent for the quarter (net) which ranked in the 44th percentile of public plans and slightly trailed the benchmark. For the fiscal year, portfolio performance was basically flat, being down -0.43 percent (ranking in the 47th percentile). (Note: These returns were preliminary in the absence of a final accounting from Brookfield Infrastructure Fund). The portfolio's five-year return was a positive 9.66 percent. Fund value as of the previous day's market close was $52,360,663.

Member Cobb moved to accept the investment performance report as presented. Member McKay seconded the motion which carried unanimously.

Ken Harrison – *Sugarman, Susskind, Braswell & Herrera* (Attorney)

Attorney Harrison introduced Attorneys Caroline Quill and Madison Levine who recently joined the firm. Both were recruited from the Miami-Dade State Attorney's Office.

The attorney went on to advise that the State Legislature ended its session without acting on a bill to include Covid 19 as a presumptive disease for first responders. He expected it to be reintroduced in the next session.

He also reminded board members to timely file their financial disclosure statements which were due July 1, 2022.

Chad Little – *Freiman Little Actuaries, LLC* (Plan Actuary)

Mr. Little advised of State approval of the Port Orange Police Pension Fund's 2021 Annual Report to the Division of Retirement. This approval placed the Fund in line for receipt of State Premium Tax Revenues in mid-August.

The actuary also mentioned that he was working with the police union on a few benefit studies for collective bargaining purposes.

Karan Rounsavall (Plan Administrator)

Educational Opportunities: Florida Public Pension Trustees Association (FPPTA) Annual Conference (June 26-29, 2022 at Hilton Bonnet Creek Orlando).

If anyone was interested in attending, they were to contact the Plan Administrator.

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The next quarterly meeting was scheduled for Monday, August 15, 2022.

OLD BUSINESS

A. Proposed ordinance creating a line-of-duty death benefit

Preparation of this ordinance was first directed at the pension board's November 9, 2021 quarterly meeting and then deferred at the February 14, 2022 for revisions. At this time, board members were in receipt of a proposed ordinance creating a line-of-duty death benefit proving a death benefit wherein a surviving spouse received a monthly benefit equal to 100 percent of the member's monthly salary.

Member Bastian moved to accept the proposed ordinance as presented and direct the actuary to prepare an actuarial impact statement. Upon receipt of the impact statement, the proposed ordinance was to be forwarded to city staff for consideration by the Port Orange City Council. Member McKay seconded the motion which carried unanimously.

NEW BUSINESS

A. Ratify early retirement benefit option for Carl Lamirande

Member Bastian moved to ratify Detective Lamirande's election of the 100 Percent Joint and Survivor Annuity Option effective June 1, 2022. Member McKay seconded the motion which carried on an all yes vote.

B. Acknowledge commencement of survivor benefits for Virginia Waterman (joint annuitant for Retiree Phil Niebieski) as of May 1, 2022

Plan Administrator Rounsavall advised that Mr. Niebieski passed away in April 2022. Monthly retirement benefits continued to Virginia Waterman (his joint annuitant). This was an informational item; no board action was needed.

C. Renewal of fiduciary liability insurance policy

Plan Administrator Rounsavall presented the renewal quote from Markel American Insurance Company through Ullico Casualty Group. The aggregate limit of liability was $1 million with zero deductible. Waiver of recourse for trustees was included at no additional premium as was an endorsement covering the third-party administrator as an additional insured. The annual premium was $5,087.36 which was a slight increase over the prior year's premium.

Member Cobb moved to authorize renewal of the policy with Markel American Insurance Company at a cost of $5,087.36 for the ensuing year (May 31, 2022 through May 31, 2023). Member McKay seconded the motion; it carried unanimously.

D. Periodic review of professional service provider agreements

Pursuant to its adopted policy, the Pension Board routinely reviewed all professional service provider agreements to determine appropriateness and timeliness of the terms contained therein. Board members were in receipt of a listing of all consultants and their agreement execution dates. Plan Administrator Rounsavall mentioned that the Port Orange <u>Fire</u> Pension Board recently voted to hire *First State Trust Company* as its plan's custodian. (Note: First State Trust also served as custodian for the Port Orange Police and General Employee Pension Plans.)

Board members expressed appreciation for and satisfaction with all professional service providers.

E. Ratify chairman's prior decision to authorize Freiman Little Actuaries to prepare actuarial studies for collective bargaining purposes

Consistent with adopted board policy, Member Proctor moved to ratify Chairman Carman's prior decision authorizing the actuary to prepare certain actuarial studies. It was understood that the cost of these studies would be split between the police union and the city. There was no cost to the board. Member Bastian seconded the motion which carried on an all-yes vote.

F. Discussion and possible action related to forfeiture of retirement benefits for Retiree Steven Braddock

Board members were in receipt of a memorandum from Sugarman, Susskind, et al dated March 9, 2022 which examined the question as to whether Steven Braddock (formerly employed by the Port Orange Police Department) should forfeit his pension as a result of accepting a plea of no contest to two felony charges where the court withheld adjudication. Attorney Victoria Zinn was in attendance to represent Mr. Braddock's interests.

The March 9th memo summarized facts of the case. In December 2021, Mr. Braddock pled no contest to a felony count of exploitation of the elderly and another felony count of uttering a forgery. The court withheld adjudication on both counts. The alleged events occurred in 2017 and 2018 while Mr. Braddock was employed with the Port Orange Police Department. Mr. Braddock separated from service on December 28, 2018 and retired with 23.7 years of service with the Department.

The attorney's opinion held that while Mr. Braddock did not commit any specified offenses under the forfeiture provisions of *Florida Statutes (Sec. 112.3173),* he might have violated the <u>catch all</u> provision. The catch all provision stated that "the committing of any felony by a public officer or employee with intent to defraud the public... to realize or obtain a profit, gain, or advantage for himself...*through the use or attempted use of the power, rights, privileges, duties, or position of his public office or employment position...*" was a violation of the forfeiture statute.

Forged documents were notarized for Mr. Braddock by a records clerk at the Port Orange Police Department. The March 9th memorandum opined that Mr. Braddock used his privilege, position and access to notarization services as a police officer to obtain free notary services provided by a police department employee (at work at the time) with intent to defraud the public and to obtain and realize a personal gain.

Attorney Harrison explained that <u>if</u> the board felt the nexus of Mr. Braddock using a police department employee to obtain notarization of forged documents was strong enough to warrant forfeiture of his pension benefits, it should schedule a formal hearing to consider all the facts of the case. A formal hearing involved notice to Mr. Braddock and the need for the board to engage the services of outside legal counsel to prosecute the case. However, this was a board decision; the board did not need to move forward with a hearing.

The board recognized Attorney Zinn. She did not feel that a nexus existed to justify the catch all provision of the forfeiture statute. Nor was there malicious intent or financial gain on the part of Mr. Braddock. Ms. Zinn also stated that Mr. Braddock relied on the no contest warrant that he would not forfeit his pension.

Chairman Carman expressed regret at the decision pending before the pension board. He felt it was the fiduciary responsibility of the board to proceed with the formal hearing, hear the evidence, and then make a decision as to forfeiture.

Member Bastian moved to proceed with a forfeiture hearing involving Steven Braddock and to direct the attorney to send formal notice of hearing to Mr. Braddock and to engage the services of outside legal counsel to prosecute the case. Member Proctor seconded the motion which carried unanimously.

PUBLIC COMMENT - None

ADJOURNMENT

The meeting adjourned at 3:23 p.m.

Lt. Warren Carman, Chairman

Karan Rounsavall, Plan Administrator