

**CITY OF PORT ORANGE  
POLICE OFFICERS' PENSION BOARD  
NOVEMBER 20, 2023**

The Port Orange Police Officers' Pension Board of Trustees held its quarterly meeting on Monday, November 20, 2023 in the Police Department Training Room, 4545 Clyde Morris Boulevard, Port Orange, Florida.

**MEMBERS PRESENT:** Chairman Warren Carman (fifth member)  
Drew Bastian (resident member)  
Brian Schnibben (police member)  
William Proctor (police member)  
Brian Cobb (resident member)

**CONSULTANTS:** Madison Levine, Attorney – *Sugarman, Susskind, et al\**  
Tyler Grumbles, Investment Consultant – *AndCo Consulting*  
Chad Little, Actuary – *Freiman Little Actuaries*  
Karan Rounsavall, Plan Administrator

**CITY STAFF:** John McKinney, Assistant City Manager

Chairman Carman called the meeting to order at 2:03 p.m. A quorum was in attendance. \*Attorney Levine 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 August 21, 2023 as submitted. Member Proctor 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 August 2023 - \$2,600.  
*Recommendation:* Ratify payment.
  2. Sugarman, Susskind, et al – monthly retainer for September 2023 - \$2,600.  
*Recommendation:* Ratify payment.
  3. Sugarman, Susskind, et al – monthly retainer for October 2023 - \$2,600.  
*Recommendation:* Ratify payment.
  4. Plan Administrator Karan Rounsavall – monthly fee (August 2023, September 2023 and October 2023) - \$9,000. *Recommendation:* Ratify payments.
  5. Florida Public Pension Trustees Association (FPPTA) – registration fee for chairman and plan administrator to attend 2023 Fall Trustee School - \$1,700.  
*Recommendation:* Ratify payment.
  6. Sawgrass Marriott Resort – hotel accommodations for plan administrator to attend FPPTA Fall Trustee School - \$664.50. *Recommendation:* Ratify payment.
  7. Sawgrass Marriott Resort – hotel accommodations for chairman to attend FPPTA Fall Trustee School - \$664.50. *Recommendation:* Ratify payment.

8. Hilton Orlando Airport – hotel accommodations for Trustee Schnibben to attend Division of Retirement Police and Fire Pension Conference - \$419.91. Recommendation: Ratify payment.
9. Florida Public Pension Trustees Association – 2024 membership renewal for pension board - \$750. Recommendation: Ratify payment.
10. Trustee Brian Schnibben – reimburse out-of-pocket expenses to attend pension conference - \$293.46. Recommendation: Ratify payment.
11. Chairman Warren Carman – reimburse mileage expense to attend FPPTA trustee school - \$119.70. Recommendation: Ratify payment.
12. AndCo Consulting – investment consulting and performance monitoring services for quarter ended September 30, 2023 - \$10,837.50. Recommendation: Ratify payment.
13. First State Trust Company – custodial services for quarter ended September 30, 2023 - \$4,625. Recommendation: Ratify payment.

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

### **CONSULTANT REPORTS**

#### **Tyler Grumbles – AndCo Consulting (Investment Consultant)**

##### **A. Investment Performance Report for quarter ended September 30, 2023**

Mr. Grumbles presented the performance report and economic commentary for the quarter ended September 30, 2023. The portfolio ended the fiscal year on a down note with both equities and fixed income posting negative returns. All asset classes were down for the quarter. The Federal Reserve continued to increase interest rates which was the main contributing factor to the poor performance. However, trailing 12-month returns for the overall portfolio were positive.

Total market value as of September 30, 2023 was \$56,472,976 down from \$57,404,552 for the previous quarter ended June 30, 2023. On a percentage basis, the composite portfolio was down -3.03 percent for the quarter (net) which ranked in the 56<sup>th</sup> percentile of public plans and underperformed the benchmark. (Note: These returns were preliminary in the absence of a final accounting from infrastructure and private equity holdings.) For Fiscal Year 2022/2023, the pension fund was up 12.5 percent which exceeded the assumed rate of return. Trailing returns over the three-year and five-year time horizons remained in the top ten percent of public plans. The fund's value as of the prior day's close was \$58,029,203.

All asset classes were within their target ranges; there was no recommendation for rebalancing at this time.

*The pension board accepted the investment performance report as presented.*

##### **B. Update on private equity investment with 50 South Capital Advisors**

At its previous meeting, the pension board approved a \$3.5 million commitment to 50 South Capital Advisors (private equity). Mr. Grumbles reported that the subscription agreement and side letter were timely reviewed and executed. Accordingly, the fund received the fee discount for early submittal.

Mr. Grumbles advised that the private equity strategy added value to the fund, however, private investments were more complex from an administrative perspective and very well would mean higher fees in the future.

Madison Levine – Sugarman, Suskind, Braswell & Herrera (Attorney)

- A. Update on House Bill 3 amending fiduciary standards for public pension plans and creating reporting requirements

Board members were in receipt of the attorney's updated report on the new state law. Local pension plans were to report compliance with the legislation to the Department of Management Services (DMS) on a biennial basis beginning December 15, 2023. These reports were to be uploaded to a portal on the DMS's website. The attorney's office prepared a draft report for this purpose. *Plan Administrator Rounsavall would register as the authorized online user and upload the compliance report as required.*

- B. Update on appeal filed by Kim Braddock (appellant/ex-spouse) in the matter of forfeiture of retirement benefits for Steven Braddock

This matter was still pending review by a panel of judges in the Fifth District Court of Appeal. Dockets were backed up and it could be some time before a decision was rendered. The plan's fiduciary insurance paid all costs associated with the claim.

Karan Rounsavall (Plan Administrator)

- A. Educational Opportunities:

- Florida Public Pension Trustees Association (FPPTA) – Winter Trustee School at Rosen Center in Orlando - (January 28 - 31, 2024)

If any member wished to attend, they were to contact the plan administrator.

- B. Pending revisions to Summary Plan Description

The latest publication of the Summary Plan Description (SPD) was approved on February 18, 2021. The next publication was deferred pending finalization of the line-of-duty death ordinance and recent collective bargaining changes related to pension benefits. Both items represented substantive changes to the pension plan; it was important that reference thereto be included in the next publication.

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The next quarterly meeting was scheduled for Monday, February 26, 2024.

Chad Little – Freiman Little Actuaries, LLC (Plan Actuary) – No report

**OLD BUSINESS**

- A. Discussion regarding Ordinance No. 2023-09 creating a line-of-duty death (LODD) benefit and adding new definition for "domestic partner"

Adding a line-of-duty death benefit was first discussed by the pension board at its quarterly meeting on November 9, 2021 at which time the pension attorney was directed to draft an ordinance that mirrored the line-of-duty death benefit provided by Florida Retirement System (FRS). This initial action was followed by multiple delays in the ordinance's progression. When the draft ordinance was submitted to members of the police department's collective bargaining representatives, it was revised to include a definition for "domestic partner." These negotiations took six months. Both unions (IUPA

and PBA) ratified the changes in early March 2023 and executed a memorandum of understanding (MOU). At this point the city's attorney (not pension attorney) revised the ordinance to reflect this new definition for "domestic partner" and other related changes. There were even further delays in preparing the actuarial cost impact statement due to inaccurate salary data, specifically pensionable accruals for certain plan members. The impact statement based on the revised ordinance was received in late August 2023. Port Orange City Council adopted the LODD ordinance on September 19, 2023 which stated that the amendments contained therein were effective upon adoption.

The issue before the pension board at this time was whether the ordinance applied retroactively. Attorney Levine advised that there was no intent expressed in the LODD ordinance, as written and adopted, to be retroactive. Nor did the ratified memorandum of understanding reference a retroactive intent. This issue could be resolved with a new MOU (ratified by the unions and the city) clarifying a retroactive intent or the board could direct the pension attorney to prepare a new ordinance with a retroactive effective date and present same to the city.

A surviving spouse, whose husband died in August 2021, wished to apply for line-of-duty death benefits. Given that date of death preceded adoption of Ordinance No. 2023-09, the attorney advised that the pension board could not take any action at this time.

Chairman Carman stated that the LODD benefit provided for by FRS went back to 2002. While the pension board had authority to interpret its plan document [(Section 54-134(e)(1))], the bargaining parties (unions and city) must clarify a retroactive intent. The pension board was not a party to union negotiations.

Attorney Levine recommended that the Port Orange Police Pension Board request an executed/ratified MOU between the city and the unions (IUPA and PBA) providing that the line-of-duty death benefit was intended to be retroactive, and as such, granted the pension board the authority to interpret and apply Ordinance No. 2023-09 retroactively.

*Member Bastian moved to accept the recommendation of the pension attorney as stated above. Member Cobb seconded the motion which carried unanimously.*

Chairman Carman suggested that the surviving spouse proceed with submitting application for a LODD death benefit, however, the pension board was not in a position to act on same at this time.

## **NEW BUSINESS**

### A. Approval of application for line-of-duty death (LODD) benefits

Board members were in receipt of a draft application for LODD benefits. Plan Administrator Rounsavall advised that it was similar in form and content to the FRS LODD application.

*Member Cobb moved to approve the application for LODD benefits as presented. Member Bastian seconded the motion; it carried on an all yes vote.*

### B. Approval of Domestic Partnership Affidavit

Ordinance No. 2023-09 (LODD) provided that not only a surviving spouse, but also a domestic partner, could make application for LODD benefits. However, a domestic partner relationship must be established before the death of any member and thus before any application for benefits could be submitted by such an individual in the event

of a line-of-duty death. The pension board was in receipt of a draft *Domestic Partnership Affidavit prepared with guidance from the board attorney.*

*Member Bastian moved to approve the Domestic Partnership Affidavit as presented. Member Cobb seconded the motion which carried unanimously.*

- C. Establish quarterly meeting dates for 2024 (Mondays at 3:00 p.m. on February 26, 2024, May 20, 2024, August 19, 2024, and November 18, 2024)

*The board approved 2024 quarterly meeting dates as set forth above. Plan Administrator Rounsavall noted the new starting time of 3:00 p.m. Meetings were held in the Police Department Training Room.*

- D. Interpretation of plan document as to whether a vested member may elect to receive refund of contributions upon separation from service understanding that they forfeit all rights to future benefits

In an email to the plan administrator dated November 13, 2023, Attorney Pedro Herrera advised that a member was always entitled to a refund of their contributions, whether vested or not. Any such refund would disqualify a member from any pension benefits in the future and all rights to a pension would be permanently forfeited.

*Board members concurred with the attorney's opinion. The plan document was interpreted accordingly.*

- E. Clarification that calculation of the non-taxable portion (after-tax contribution) of a monthly retirement benefit should correspond with a member's DROP entry date

In response to this request for clarification, Attorney Herrera advised that the plan should direct the actuary to calculate the benefit based on the non-taxable portion to be attributed as of the member's retirement date which should correspond with the DROP entry date. (Reference attorney's email dated November 13, 2023)

*Board members concurred with the attorney's opinion. The plan document was clarified accordingly.*

- F. Notification of deferred vested benefit for Officer Silvio Portillo

*Board members acknowledged receipt of vested calculation for Officer Portillo who was entitled to a future benefit from the pension plan.*

- G. Ratify Officer Andrew McKay's benefit election upon entry into DROP effective July 1, 2023


*Member Bastian moved to ratify Officer McKay's benefit election. Member Cobb seconded the motion which carried on an all-yes vote.*

**PUBLIC COMMENT** - None

**ADJOURNMENT**

The meeting adjourned at 3:10 p.m.

  
Karan Rounsavall, Plan Administrator

  
Lt. Warren Carman, Chairman