

**CITY OF PORT ORANGE
POLICE OFFICERS' PENSION BOARD
NOVEMBER 18, 2024**

The Port Orange Police Officers' Pension Board of Trustees held its quarterly meeting on Monday, November 18, 2024 in the Police Department Training Room, 4545 Clyde Morris Boulevard, Port Orange, Florida.

MEMBERS PRESENT: Chairman Warren Carman (fifth member)
Richard Clark (police member)
Brian Schnibben (police member)
Brian Cobb (resident member)

MEMBERS ABSENT: Drew Bastian (resident member) - excused

CONSULTANTS: Pedro Herrera, Attorney – *Sugarman, Susskind, et al**
Madison Levine, Attorney – *Sugarman, Susskind, et al**
Tyler Grumbles, Investment Consultant – *Mariner Institutional*
Chad Little, Actuary – *Freiman Little Actuaries**
Karan Rounsavall, Plan Administrator

Chairman Carman called the meeting to order at 2:09 p.m. A quorum was in attendance. *The attorneys and actuary attended the meeting via video conferencing. (Zoom hosted by City of Port Orange)

This was the last meeting for Member Drew Bastian who served as city council's *resident member* to the Police Pension Board. Member Bastian's term on city council expired in early December (thus his appointment to the Police Pension Board expired). Board members expressed appreciation for his many years of service. A certificate of appreciation would be delivered to him after today's meeting.

APPROVAL OF MINUTES

Member Schnibben moved to approve minutes of quarterly meeting August 19, 2024 as submitted. Member Clark 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 - \$2,600.
Recommendation: Ratify payment.
 2. Sugarman, Susskind, et al – monthly retainer for September 2024 - \$2,600.
Recommendation: Ratify payment.
 3. Sugarman, Susskind, et al – monthly retainer for October 2024 - \$2,600.
Recommendation: Ratify payment.
 4. Plan Administrator Karan Rounsavall – monthly fee (August 2024, September 2024, and October 2024) - \$9,900. *Recommendation:* Ratify payments.
 5. Florida Public Pension Trustees Association (FPPTA) – 2025 membership renewal for pension board - \$750. *Recommendation:* Ratify payment.
 6. Florida Public Pension Trustees Association (FPPTA) – 2025 CPPT recertification for chairman - \$50. *Recommendation:* Ratify payment.

7. Hilton Orlando – hotel accommodations for chairman to attend FPPTA Fall Trustee School - \$627. Recommendation: Ratify payment.
8. Lt. Warren Carman – reimburse travel expenses for attendance at FPPTA Fall Trustee School - \$135.77. Recommendation: Ratify payment.
9. Mariner Institutional – investment consulting and performance monitoring services for quarter ended September 30, 2024 - \$11,054.25. Recommendation: Ratify payment.
10. First State Trust Company – custodial services for quarter ended September 30, 2024 - \$4,625. Recommendation: Ratify payment.

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

CONSULTANT REPORTS

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

- A. Discussion regarding Appellate Court's decision in the matter of appeal filed by Kim Braddock (forfeiture of retirement benefits for Steven Braddock)

In a decision dated October 2, 2024, the Fifth District Court of Appeal in the State of Florida issued its decision in the matter of the appeal filed by Kim Braddock (ex-spouse) regarding forfeiture of retirement benefits for Steven Braddock. In the decision written by a panel of three justices, the majority found that the "catch-all" provision of the forfeiture statute did not apply as there was no "nexus" when Steven Braddock used the services of a police records clerk to notarize a fraudulent document and thus ordered the Pension Board to reinstate Kim Braddock's monthly pension (and past due sums). However, one justice wrote a strong dissenting opinion finding that a nexus did, in fact, exist and agreed with the Pension Board's decision to forfeit Mr. Braddock's pension.

The Board's attorneys consulted with the Pension Plan's fiduciary insurance carrier and confirmed that it would continue to cover the legal costs associated with this claim if the Board voted to further appeal the decision to the Florida Supreme Court. There was a conference call between the board attorneys, chairman and plan administrator during which procedural options were discussed at length. Based on the strength of the argument presented in the dissenting opinion and the fact that fiduciary insurance would continue to absorb costs, Chairman Carman instructed the Board's attorneys to file a petition to the Florida Supreme Court asking said Court to accept jurisdiction and review the Appellate Court's decision. *The chairman's decision was subject to ratification by the Pension Board.*

Attorneys Herrera and Levine felt that the Pension Board had an excellent case on appeal as witnessed by the dissenting opinion. It was not a matter of law but the Appellate Court's misapplication of the facts, particularly regarding the records clerk's personal friendship with Mr. Braddock. There was no obligation for the Pension Plan to make benefit payments to Kim or Steven Braddock pending the appeal. Of course, Kim Braddock's benefit was premised upon Steven Braddock receiving his. The Board could elect to suspend payments for now unless otherwise directed by the court.

Member Schnibben moved to ratify Chairman Carman's decision to file a petition to the Florida Supreme Court asking it to accept jurisdiction and review the Appellate Court's finding. Member Clark seconded the motion which carried unanimously.

It should be known by the end of the year whether the Supreme Court accepted jurisdiction. If it did so, not only would the board's attorneys be required to submit a brief, but the law firm of Klausner, Kaufman, Jenson & Levinson would submit an amicus brief as this firm originally prosecuted the case before the Pension Board several years earlier.

Based on the attorneys' recommendation, Member Schnibben moved to hold off on reinstating benefit payments to Kim and/or Steven Braddock pending final resolution of the appeal or further direction from the court. Member Clark seconded the motion which carried on an all-yes vote.

B. Special report in connection with recent 2024 legislation regarding governmental entities entering into agreements with professional service providers

Board members were in receipt of a special report from Sugarman, Susskind, Braswell & Herrera advising of recently adopted legislation pertaining to governmental entities and their respective agreements with vendors. The two statutory changes dealt with *Foreign Countries of Concern* and *Human Trafficking* and were effective as of January 1, 2025. Moving forward, any service provider agreement with the pension board would contain language assuring compliance with these statutes and affidavits for existing providers if applicable.

The meeting recessed at 2:47 p.m. and reconvened at 3:01 p.m.

Tyler Grumbles – *Mariner Institutional* (Investment Consultant)

A. Investment Performance Report for quarter ended September 30, 2024

Mr. Grumbles presented the investment performance report and economic commentary for the quarter ended September 30, 2024. Performance in domestic equity markets was broadly positive following the Federal Reserve's first interest rate cut in four years. The S&P index gained 5.9 percent and there was a shift from growth stocks to value. Energy and information technology sectors did well. Fixed income was also nicely positive reacting to the Fed's interest rate cuts.

Total market value as of September 30, 2024 was \$68,844,067 reflecting over \$3 million in investment gains from \$65,137,869 for the previous quarter ended June 30, 2024. Per board direction at its previous meeting, the portfolio's position in Oakmark International (international equity - value) was liquidated during the quarter with proceeds from the sale invested in DFA International Value.

On a percentage basis, the composite portfolio was up 4.63 percent for the quarter (net) which ranked in the 79th percentile of public plans and underperformed the benchmark. Fiscal year-to-date, the fund was up 21.79 percent (43rd percentile). (Note: These returns were preliminary in the absence of a final accounting from infrastructure and private equity holdings.)

All asset classes remained within acceptable ranges and in compliance with the *Investment Policy Statement*. Future capital calls would be funded from domestic equities. There was no recommendation to rebalance at this time.

Mr. Grumbles was disappointed with the performance of EuroPacific Growth (international equity) and felt that they were somewhat out of sync with their style, particularly as they handled emerging markets. *He would bring an international equity manager search to the next meeting and possibly look for a separate manager for emerging markets in the coming year.* Real estate returns were also disappointing although it had been a difficult year for real estate overall given the interest rate environment.

Chairman Carman commented favorably on the portfolio's performance over longer time periods. Since inception, the portfolio had met its assumed investment rate of return.

The Board accepted the investment performance report as presented.

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

Mr. Little had nothing new to report. He was working on the 2024 valuation. He also mentioned that several 2025 meeting dates might be difficult for him to attend in person; he would need to join via *Zoom*.

Karan Rounsavall (Plan Administrator)

A. Educational Opportunities:

- Florida Public Pension Trustees Association (FPPTA) – Winter Trustees School in Orlando (January 26 - 29, 2025)

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

The next quarterly meeting was scheduled for Monday, February 24, 2025.

OLD BUSINESS

- A. Ordinance No. 2024-21 implementing changes to pension benefits negotiated with IUPA and PBA-Lieutenants

The Port Orange City Council adopted this ordinance on November 6, 2024 which codified several benefit improvements to the pension plan recently ratified through the collective bargaining process.

The ordinance made several significant changes to plan benefits. Plan Administrator Rounsavall suggested that the *Summary Plan Description* be updated to reflect these changes. *Member Clark moved accordingly. Member Schnibben seconded the motion which carried unanimously.*

NEW BUSINESS

- A. Interpretation of Ordinance No. 2024-21 relating to determination of maximum total benefit

In determining compliance with the \$95,000 annual maximum benefit, the new ordinance stated that supplemental benefit amounts would no longer be taken into account in this calculation. As it could be many years before a retired member reached their maximum benefit (given COLA increases), it was important to capture this number when a member first retired or entered DROP.

Mr. Little would provide examples at the next meeting on how a retiree's maximum benefit would be calculated and reflected on the benefit election form.

A board policy as to application of cost-of-living adjustments (COLA) to the supplemental benefit would also be discussed at the next meeting.

B. Approval of updated retirement application

C. Approval of application to participate in Deferred Retirement Option Program (DROP)

Board members were in receipt of revised applications for both retirement and DROP as prepared by the plan administrator. The applications were previously reviewed and approved by legal counsel and now presented to the board for acceptance.

Member Cobb moved to approve both applications as presented. Member Schnibben seconded the motion and it carried on an all-yes vote.

D. Establish quarterly meeting dates for 2025 (Mondays at **2:00 p.m.** on February 24, 2025, May 19, 2025, August 18, 2025, and November 17, 2025)

The board acknowledged 2025 quarterly meeting dates as set forth above. Plan Administrator Rounsavall noted the starting time of 2:00 p.m. Meetings were held in the Police Department Training Room.

E. Acknowledge receipt of line-of-duty disability application submitted by Officer Jacob Mills

Chairman Carman accepted a complete line-of-duty disability application submitted by legal counsel for Officer Jacob Mills in October in order that the process of requesting and collecting medical records could begin. This was routine practice and in line with adopted policy.

Member Cobb moved to ratify the chairman's decision to accept Officer Mills' disability application. Member Schnibben seconded the motion; it carried unanimously.

F. Acknowledge receipt of detailed accounting report for Fiscal Year 2023/2024


Board members were in receipt of the detailed accounting report for Fiscal Year 2023/2024 prepared by the plan administrator. It reflected administrative expenses that were paid on behalf of the plan during the fiscal year. Administrative expenses included legal counsel, actuarial, investment consultant, plan administration, education, fiduciary insurance, etc. Total administrative expenses were \$199,261.30. This total was not only less than the budget for the fiscal year but also substantially less than administrative expenses paid in Fiscal Year 2022/2023 (\$244,599) which included over \$50,000 paid to outside counsel to prosecute the Braddock forfeiture. Investment management expenses were not considered administrative expenses and, as such, were not reported. Nor were mutual fund holdings (reported net of fees) considered administrative expenses.

There were no questions. *The Board accepted the detailed accounting report for Fiscal Year 2023/2024 as presented.* Plan Administrator Rounsavall would provide the accounting report to the plan sponsor (City of Port Orange) for posting on the City's web site and make it available to plan members.

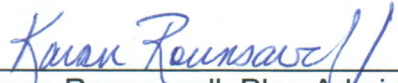
PUBLIC COMMENT - None

ADJOURNMENT

The meeting adjourned at 3:56 p.m.



Lt. Warren Carman, Chairman



Karan Rounsavall, Plan Administrator