

**POMPANO BEACH POLICE & FIREFIGHTERS' RETIREMENT SYSTEM**

**TEMPORARY OFFICE LOCATION  
627 E. ATLANTIC BLVD.  
POMPANO BEACH, FLORIDA**

**BOARD OF TRUSTEES MINUTES  
REGULAR MEETING  
JANUARY 16, 2007**

The Board of Trustees convened at the Pompano Beach Elks Lodge No. 1898, 700 NE 10<sup>th</sup> Street, Pompano Beach, Florida. The Chairman called the meeting to order at 3:09 p.m.

**PRESENT:** Chairman Paul D. O'Connell  
Vice Chairman Richard E. Avallone  
Trustee Sharra Aaronian  
Trustee Daniel M. Christophers  
Trustee Patrick S. Fletcher  
Trustee Ernest J. Lee, Jr.  
Trustee Peter McGinnis  
Trustee Richard H. Samolewicz  
Trustee Jeffrey J. Valerga

**ALSO PRESENT:**  
Robert A. Sugarman, Board Attorney  
Lindsay Dalton, Deputy Administrator

**APPROVAL OF AGENDA**

**MOTION:** To approve the Meeting Agenda of January 16, 2007.

	<b>M O T I O N</b>	<b>S E C O N D</b>	<b>V O T E D Y E S</b>	<b>V O T E D N O</b>
O'Connell			X	
Avallone			X	
Aaronian			X	
Christophers			X	
Fletcher			X	
Lee, Jr.		X	X	
McGinnis			X	
Samolewicz	X		X	
Valerga			X	

**APPROVAL OF WARRANT NOS. 2559 THROUGH 2569**

**MOTION:** To approve payment of bills set forth on Warrant Nos. 2559 through 2569 as follows:  
No. 2559, \$2,000, No. 2560 \$ \$522.92,  
No. 2561 \$23,856.92, No. 2562 \$2,821.07,  
No. 2563 \$4,250.00, No. 2564 \$5,682.88,  
No. 2565 \$6,785.00, No. 2566 \$2,200.00,  
No. 2567 \$300.00, No. 2568 \$2,532.37 and  
No. 2569 \$213,239.48.

	<b>M O T I O N</b>	<b>S E C O N D</b>	<b>V O T E D Y E S</b>	<b>V O T E D N O</b>
O'Connell			X	
Avallone	X		X	
Aaronian			X	
Christophers			X	
Fletcher			X	
Lee, Jr.			X	
McGinnis			X	
Samolewicz		X	X	
Valerga			X	

(Detailed Listing of Warrants is attached to the Minutes)

SET NET INVESTMENT RATE OF RETURN FOR 12/31/06 FUND RATE DROP EARNINGS

Chairman O’Connell advised at this time, the Board will not be able to set the net investment return for the 12/31/06 Fund Rate DROP earnings. He explained that the Custodial statements for the period ending 12/31/06 have not yet been released because the quarterly rate of return for the INVESCO Core Real Estate Fund will not be available until later in the week. Since this will be a recurring problem, the Chairman suggested a change in the timeframe for setting the net investment return and mailing of the DROP statements as well as the quarterly Newsletter and financial reports.

Discussion was held and it was decided to allow an extra month. Thus, the net investment rate of return for the Fund Rate DROP earnings will be set at the Board meetings in February, May, August and November after which the DROP statements will be promptly mailed to the participants. Also, the quarterly Newsletter and financial reports will be forwarded to the members approximately 7-8 weeks after the end of each fiscal quarter.

**MOTION:** To table setting the Net Investment Rate of Return for the 12/31/06 Fund Rate DROP earnings until the 2/20/07 Board meeting.

O’Connell			X
Avallone			X
Aaronian			X
Christophers			X
Fletcher			X
Lee, Jr.	X		X
McGinnis			X
Samolewicz		X	X
Valerga			X

ADOPTION OF ICMA AMENDED 457 DEFERRED COMPENSATION PLAN FOR PENSION STAFF

Ms. Dalton reported that at the last Board meeting, the Board accepted changes to the ICMA 401(a) Plan document, which is the retirement plan for the pension staff. The ICMA has also made similar changes to the ICMA 457 Plan and the ICMA is using the same negative election process to amend the Plan document so the Board need only accept the amended Plan and the changes will be implemented automatically. Ms. Dalton informed the Board that she currently participates in the 457 Plan.

**MOTION:** To accept changes to the ICMA 457 Deferred Compensation Plan and to adopt the amended Plan document through the negative election process.

O’Connell			X
Avallone			X
Aaronian			X
Christophers			X
Fletcher			X
Lee, Jr.			X
McGinnis	X		X
Samolewicz		X	X
Valerga			X

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<p><u>ROBERT A. SUGARMAN, ESQ.</u></p> <p><u>City Lawsuit</u> – Mr. Sugarman informed the Board that there has been no progress on the settlement discussions as the City has not responded to our proposed settlement offer. He advised that the City did, however, schedule a hearing on its Motion for Partial Summary Judgment on the Board’s veto power over pension changes. The hearing has been set for April 4, 2007 at 10:00 a.m. in front of Judge Eade.</p> <p><u>Pension Protection Act of 2006 (PPA)</u> – Mr. Sugarman reported that five days ago the IRS issued guidance in the form of some questions and answers with regard to implementation of certain sections of the PPA. He briefly reviewed some of the highlights of the report and said he will present his firm’s report on the PPA at the next Board meeting.</p> <p>Chairman O’Connell said police officers that have completed the 5-year DROP period and remain employed by BSO are not permitted to access the money in their DROP accounts. Ms. Dalton replied this policy is based on two earlier opinion letters that the Board requested from Cherry, Bekaert &amp; Holland (CBH) where it was their interpretation that DROP participants who continue employment with BSO cannot take distributions from their DROP accounts until separation of service with BSO has occurred. After brief discussion, the Board directed Ms. Dalton to ask CBH to again review their opinions in light of changes implemented under the PPA of 2006.</p> <p>Ms. Dalton then said a firefighter who has completed his DROP participation and is terminating employment with the City has posed a question concerning his DROP payout. He is under age 55, but over age 50, and would like to take monthly or annual distributions and he wants to know if he can change the distribution amount each year. Ms. Dalton stated DROP participants under age 55 are told to seek the advice of a financial advisor because changing the amount of their periodic payments may be subject to 10% early withdrawal penalty based on the Internal Revenue Code.</p> <p>Mr. Sugarman reported that beginning in 2007, public safety officers who retire at normal retirement age or on disability retirement may use up to \$3000 from a retirement plan or 457 plan on a tax-exempt basis to purchase health insurance or long term care insurance. The premium must be paid directly to the insurer. He said insurance companies must be under contract with the City or BSO to be eligible for this benefit. He is preparing forms that Retirement System will need to send to the retirees to apply for the \$3000 tax exemption.</p> <p><u>Charles Schwab Trust Company Insurance</u> – Mr. Sugarman reported that they are working on a side letter with Schwab with respect to the insurance limits in our custody agreement. He wants to review the Trust Company’s financial report, but so far Schwab has only provided the parent company’s financial report.</p>						

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<p><u>ROBERT A. SUGARMAN, ESQ (cont'd)</u></p> <p><u>Normal Retirement Date at Age 47</u> – Mr. Sugarman reported that a question arose concerning the “47 and out” provision in the pension ordinance. One of our members noticed a plan provision (Section 34.053) that stated normal retirement date is age 47 regardless of the number of years of continuous service. He explained that this provision applied to employees who became members on the effective date of the Retirement System, which was 8/15/1972, and allowed them to retire when they reached age 47 regardless of the years of service. Since these members have all retired, the provision is now obsolete.</p> <p><u>Florida Department of State 2007 Limited Liability Company Annual Report</u>  In answer to Ms. Dalton’s question, Mr. Sugarman advised that annual report for the Pompano Beach Investors, LLC, which is the Bank of America Building, should be completed by the pension staff and signed by Chairman O’Connell. It is not necessary to have an attorney complete this form. This report is due on or before 5/7/07.</p> <p><u>Apollo Group Inc. Securities Litigation</u> – Ms. Dalton advised Mr. Sugarman that the Retainer Agreement with Lerach Coughlin was signed at the 12/18/06 Board meeting and given directly to Lerach Coughlin, but we need a copy for our files. Also, the Certification of Named Plaintiff executed by the Chairman was mailed to Mr. Sugarman’s office on 12/27/06.</p> <p><u>Annual Audit</u> – Mr. Sugarman informed the Board that he reviewed and approved the contingency notes in the proposed audit and representation letter prepared by Cherry Bekaert &amp; Holland.</p> <p><u>Records Retention Schedule</u> – Mr. Sugarman reported that the Florida Department of State recently amended the general records retention schedule and he reviewed some of the key changes. The Board must keep independent audit reports for 10 fiscal years; bank statements for 5 fiscal years; committee/board appointment records for 3 fiscal years after term of office ends; electronic funds transfer records for 5 fiscal years; pension fund records on performance, investments, contributions and actuarial reports, etc. for 5 fiscal years; and retiree pension records for 5 fiscal years. A copy of the new schedule was given to Ms. Dalton.</p> <p>The audio cassette tape broke at this point during transcription.</p> <p><u>DISCUSSION AND APPROVAL OF EMBASSY SUITES AGREEMENT AS VENUE FOR APRIL EDUCATIONAL MEETING</u></p> <p>Trustee Christophers stated that Mr. Sugarman had some concerns about the proposed contract with the Embassy Suites in regard to the cancellation and non-performance clause and what specifically the Board would be responsible for be in the event of cancellation. There was also concern on the requirement of a certificate of insurance. Trustee Christophers said the contract was discussed at the Investment Committee</p>						

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<u>APRIL EDUCATIONAL MEETING (cont'd)</u>						
<p>meeting on 1/11/07 and he emailed a list of our concerns and some changes in our requirements to the Sales Manager at the Embassy Suites.</p>						
<p>The Manager provided an explanation of the cancellation and non performance clause and the agreement will be revised to reflect the change in number of rooms and the meeting room space. Also, a certificate of insurance is not required.</p>						
<p>Mr. Sugarman said he was not completely satisfied with the explanation of the cancellation and non performance clause and he still had additional concerns on the estimated food and beverage revenue and requested further clarification. Once these issues are resolved and the revisions are made, the agreement can be signed subject to the final review and approval of Mr. Sugarman.</p>						
<p><b>MOTION:</b> To approve and sign revised agreement with Embassy Suites Deerfield Beach Resort subject to the review and approval of Mr. Sugarman.</p>						
<p>O'Connell Avallone Aaronian Christophers Fletcher Lee, Jr. McGinnis Samolewicz Valerga</p>						
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<u>COMMITTEE REPORTS (cont'd)</u>  The Investment Committee and Mr. Sugarman both highly recommended BLB&G.  <b>MOTION:</b> To authorize Mr. Sugarman to work out a contingency agreement with Bernstein Litowitz Berger & Grossmann LLP.		O'Connell Avallone Aaronian Christophers Fletcher Lee, Jr. McGinnis Samolewicz Valerga	X     X	X   X	X X X X X X X X	
<u>Building Committee</u>  Committee Chair Christophers reported that the Building Committee met on 1/11/07. The Committee discussed the closing on the Bank of America building, which has been extended to 2/23/07 and reviewed a report on the costs to close that total approximately \$4.7 million submitted by BCOM.  Mr. Sugarman said this will be an owner-occupied investment building where the Retirement System is only taking up a small portion of the building. Decisions will need to be made on how to handle the rest of the investment such as when to sell it, how long to hold it or if and when to seek proposals for redevelopment. The Board is not an expert in managing real estate investments and that is why we need to hire an investment manager. The Board plans to hire BCOM to manage this investment, a property manager to manage the maintenance of the building and the lot and a leasing agent to rent out available space.  Mr. Sugarman said at the Investment Committee meeting, he suggested that a meeting be held with the real estate attorney, BCOM, Cherry Bekaert & Holland (CBH), Trustee Christophers and himself. One item that needs to be discussed at the meeting relates to the disposition fee that BCOM wants to be paid on the sale of the property that would result in a cut of our profits over and above a 12% return per year.  Next, Chair Christophers reported that everyone has agreed on the final architectural drawing for the build-out of our office space and the next step will be to start the construction drawings. Bill Carroll will oversee the construction management process which was included as part of his due diligence.  Chair Christophers stated with respect to pricing a video conference system, he received the first proposal for \$41,000 and another proposal for \$25,000.						

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<u>Professional Advisors Review Committee</u> – No report.						
<u>Communications Committee</u> – No report.						
<u>DEPUTY ADMINISTRATOR’S REPORT</u>						
<u>IRS Mileage Allowance Increase</u> – Ms. Dalton reported effective January 1, 2007, the new mileage reimbursement rate for use of person vehicles for Retirement System business will be 48.5¢ per mile.						
<u>28<sup>th</sup> Annual Police Officers &amp; Firefighters’ Pension Trustees’ School</u> Ms. Dalton reported that the conference dates are March 12-14, 2007 in Tallahassee. The new Trustees’ program is March 12, 2007 and the regular conference is March 13-14, 2007.						
<u>OLD BUSINESS</u>						
Mr. Sugarman reported that the BCOM Investment Advisory Agreement is not ready for approval.						
<u>ADJOURNMENT:</u>						
<b>MOTION:</b> To adjourn meeting.						
Meeting adjourned at 4:23 p.m.						
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>O’Connell</p> <p>Avallone</p> <p>Aaronian</p> <p>Christophers</p> <p>Fletcher</p> <p>Lee, Jr.</p> <p>McGinnis</p> <p>Samolewicz</p> <p>Valerga</p> </div> <div style="width: 35%; text-align: center;"> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> </div> </div>						
Respectfully submitted,						
Lindsay Dalton, Deputy Administrator						