

**West Palm Beach Police Pension Fund
2100 North Florida Mango Road
West Palm Beach, Florida 33409**

Minutes

**March 12, 2010
8:15 AM**

CALL THE MEETING TO ORDER

Mr. Mitchell called to order the West Palm Beach Police Pension Fund Meeting on March 12, 2010 at 8:20 AM, in the conference room of the Palm Beach County Police Benevolent Association.

Present at the meeting: Ed Mitchell, Chairman, Jonathan Frost, Board Secretary, Chris Roaf, Board Trustee, Chris Fragakis, Board Trustee and Wilton White, Board Trustee.

Also present: John Riddle, BRC Investment Management; Christopher A. Vassilopoulos & Timothy Marchesi, Endex Capital Management; Michael C. Bennett & Timothy McInerney, Valley Forge Management; Jennifer Young & Andrew Klebanow, Intech; Brendan Vavrica & John McCann of Thistle Asset Consulting Group; Bonni Jensen, Board Attorney, Law Offices of Perry & Jensen, LLC; and Dave Williams, Plan Administrator.

APPROVAL OF THE MINUTES

Mr. Mitchell asked if there were any changes required to the minutes of February 26, 2010. Mr. Frost offered his response (which was duly noted). Mr. Frost made the motion to approve the minutes, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 5-0.

APPROVAL OF DISTRIBUTIONS

New Warrants were presented for review and execution. Warrants approved at the last meeting were presented to the Board in spreadsheet format by Mr. Williams. DROP Distributions were also presented to the Board to consider. Mr. Frost made the motion to approve, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 5-0

ATTORNEY'S REPORT

Mrs. Jensen reported on HB 859 which is the restatement of the West Palm Beach Police Pension – Special Act.

Mrs. Jensen indicated the contract for Wentworth was sent out and is under review by Wentworth.

Mrs. Jensen provided a Collins Capital 5% redemption request for execution. Mr. Frost made the motion to approve, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 5-0.

Mrs. Jensen provided a brief overview and update on Senate Bill 1902.

ADMINISTRATOR’S REPORT

No Report Provided

DISABILITY INFORMAL HEARING

The Board of Trustees considered the request of claimant, _____, for a disability pension, having received the written representations of the claimant and having reviewed the records, medical and otherwise, and the independent medical evaluation of David A. Krant, MD and having a quorum, determined the following:

- A. Claimant is physically unable to perform the duties of a police officer to which he was assigned.
- B. Given the claimant’s medical condition, the City of West Palm Beach does not have a position for the claimant as a certified police officer; therefore he is unable to render useful and efficient service as a police officer to the City.
- C. The physical injury occurred in-the-line-of-duty and is total and permanent.

Pursuant to Section 15 of the Special Act of the West Palm Beach Police Pension Fund, that:

- 1. Claimant _____ is entitled to a duty disability pension.
- 2. Based on the foregoing, the disability pension shall be payable effective March 12, 2010 or the date that the Claimant stops receiving pay from the City of West Palm Beach, whichever is later, with the first payment due April 1, 2010,
- 3. The pension is subject to offset for workers’ compensation payments to the extent that the total of the pension and the workers’ compensation benefits exceed the member’s average monthly wage.
- 4. Upon the Claimant reaching age 55 and the member is still receiving a disability benefit, the pension shall be converted to a normal retirement pension. The conversion of the pension shall include providing credited service for the period that the member was in receipt of a disability pension.

The foregoing was put in the form of a motion by Mr. Fragakis, which was seconded by Mr. Roaf. All Trustees voted yes, and the motion was passed 5-0.

DELONG – VESTED DEFERRED RETIREMENT REQUEST

Mrs. Jensen indicated that the matter before the Board is whether Mr. Michael Delong is eligible to receive a vested deferred retirement benefit? Mr. Delong was noticed by Mr. Williams about the Board reviewing this matter, but did not attend.

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Mrs. Jensen outlined the facts as follows: Mr. Delong was granted a duty disability effective November 17, 1988. At the time of Mr. Delong's disability retirement, he had completed 8 years, 11 months and 21 days of service.

Mr. Delong began working as a sworn law enforcement officer for the Palm Beach County Sheriff's Office on May 1, 1990 at the same time that he was receiving disability benefits from the Fund. Mr. Delong's disability pension was terminated effective May 1, 1990. At the time that his benefit was terminated, Mr. Delong indicated that he "resigned." (Mrs. Jensen produced letters by Scott Richardson 10/23/90 and a letter by Michael Delong 10/29/90). Mr. Delong has repaid the Fund the benefit payments distributed to him after May 1, 1990 in the amount of \$10,353.54.

Mrs. Jensen cited two operative sections of the 1988 Special Act¹ to review - Section 11(c) and Sections 12 (e) and (f) (see below).

Section 11 Duty Disability Pension

* * *

(c) Duty disability pension benefits; disability occurs before age and service eligibility. – A member whose retirement on account of disability, as provided in paragraph (a) of this subsection occurs prior to the date he or she would become eligible to retire under paragraph (8)(a) hereof, shall receive a disability pension equal to the appropriate pension payable in paragraph (9)(a). The disability pension so computed shall be subject to, and not less than subparagraph 1. or subparagraph 2., as applicable, set forth below, and shall be subject to subsection (12) hereof.

(1) If the member first entered the employ of the department as a police officer prior to January 1, 1954, his or her said disability pension shall not be less than two-thirds of the member's final average salary, and shall be subject to subsection (12) hereof.

(2) If the member first entered the employ of the department as a police officer after December 31, 1953, the disability pension payable at age 55 shall not be less than two-thirds of his or her final average salary. At age 55, the member shall be given service credit for the period he or she was in receipt of a disability pension provided for in this paragraph. From and after age 55, he shall receive a pension computed in accordance with the applicable provisions of subsection (9) hereof. Any pensions payable under this paragraph shall be subject to subsection (12) hereof.

Section 12(e) and (f):

¹The operative Special Act is the one in effect when the member leaves employment. See City of Daytona Beach v. Caradona et al, 456 So.2 565 (5th DCA 1984).

Section 12. Conditions applicable to all disability retirants

* * *

(e) Reexaminations of disability retirants. – At least once each year during the first 5 years following a member’s retirement on account of disability, and at least once in each 3-year period thereafter, the board shall require any disability retirant who has not attained age 50 to undergo a medical examination to be made by a physician designated by the board. If the retirant refuses to submit to such medical examination in any such period, his or her rights in and to a disability pension may be revoked by the board. If, upon such medical examination of such retirant, the said physician reports to the board that the retirant is physically able and capable of performing the duties of a police officer in the rank held by him or her at the time of his or her retirement, the member shall be returned to employment in the department at a salary not less than the salary of the rank held by him or her and his or her disability pension shall terminate.

(f) Credited service for disability retirant. – In the event a disability retirant is returned to employment in the department, as provided in paragraph (e), he or she shall again become a member of the fund and the credited service in force at the time of the member’s retirement shall be restored to his or her credit. If he or she retired under a duty disability as provided in paragraph (11)(a) hereof, he or she shall be given service credit for the period he or she was in receipt of a disability pension. If he or she retired under a nonduty disability as provided in paragraph (10)(a) hereof, he or she shall not be given service credit for the period he or she was in receipt of a disability pension.

Mrs. Jensen then reviewed the application of the law to the facts presented. Section 11 of the Special Act provides that at age 55 the member is given credited service for the time they are in receipt of a disability and the benefit is converted to normal retirement (under the plan that they retired under – Gabriel Roeder Smith and Company (“GRS”) 12/12/88 letter which calculates age 55 benefit (copy was provided attached)). There is no language that indicates that the member is entitled to credited service at any point prior to age 55. Reaching 55 is the condition precedent to receipt of the credited service. It also contemplates that the member would still be in receipt of a pension at the time of the crediting of service.

Section 12 (e) and (f) provide that a duty disabled retirant who becomes physically capable and able may be returned to employment and the pension terminates. If a disability retirant is returned to work, then he or she gets the credit for the period of time restored and he is credited with that time, if on a duty disability.

Mrs. Jensen summarized the issue in this case is whether Mr. Delong would receive credited service for the time he was in receipt of his duty disability benefit.

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- Mr. Delong's benefit was terminated because he was discovered to be working as a police officer and agreed for his pension to be terminated.
- Mr. Delong was not rehired as a police officer in the department.
- Mr. Delong was not 55 at the time that his pension terminated and has not attained the age of 55.
- Mr. Delong has already received payments which total more than a refund of contributions. According to the GRS letter the accumulated contributions were \$12,000.15 and Mr. Delong received payments of \$1,725.59 for approximately 17.5 months November 17, 1988 to May 1, 1990.

The Board discussed whether or not the time that Mr. Delong was receiving a duty disability benefit should be applied as credited service towards his vesting for retirement benefits. Mr. White made a motion to not apply any credited service to Mr. Delong during his time of disability as the law does not provide for that. The motion was seconded by Mr. Roaf. All Trustees voted yes, and the motion was passed 5-0. Mrs. Jensen was directed to provide a written synopsis to Mr. Delong. The Board also indicated that they would hear an appeal from Mr. Delong on this matter.

ADMINISTRATOR'S REVIEW

Mr. Williams thanked the Board for the opportunity to serve the 500 plus members of the West Palm Beach Police Pension Fund. Mr. Williams reflected upon the many accomplishments attained with the Board over the last year. While Mr. Williams is always seeking input to improve the delivery of service, a formal review of the Administrator & staff is made annually. The Trustees provided their perspective and accolades to Mr. & Mrs. Williams. Mr. Williams proposed an increase for his services of 5%. The Board discussed the matter and asked Mrs. Jensen to adjust the expense language. Mr. Roaf made the motion to approve a 5% increase payable April 1, 2010, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 5-0.

INVESTMENT MANAGER PRESENTATIONS

John Riddle, BRC Investment Management; Christopher A. Vassilopoulos & Timothy Marchesi, Endex Capital Management; Michael C. Bennett & Timothy McInerney, Valley Forge Management; Jennifer Young & Andrew Klebanow, Intech; were all provided an opportunity to address the Board. The representatives provided details about their respective firms, the firm's investment philosophy, and their investment history. All provided thought provoking presentations to the Board of Trustees.

The Board discussed all aspects of each presentation and by consensus narrowed the selection down to Valley Forge Management. Mr. Frost made the motion to retain Valley Forge Management for a large cap core mandate, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 5-0. The motion included BRC as a second choice should negotiations fail with Valley Forge Management at the fee of 30 basis points for a 16 million mandate.

A discussion then followed to terminate Intech when administratively practical. Mr. Frost made the motion to approve the foregoing, which was seconded by Mr. Roaf. All Trustees voted yes, and the motion was passed 5-0.

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OPEN DISCUSSION

Mr. Frost indicated that he personally reviewed the 2009 State Report and was disappointed with the errors that he found. Mr. Frost asked Mr. Williams to return it to author to correct and return. Mr. Frost asked further for Mrs. Jensen to put the Board's displeasure in written form and send it to the author.

ADJOURNMENT

Being there was no other business; the meeting was adjourned at 11:00 AM.

Next meeting is scheduled for April 9, 2010 at 8:15 AM

Jonathan Frost, Board Secretary