

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

Minutes

**June 10, 2011
8:15 AM**

CALL THE MEETING TO ORDER

Mr. Mitchell called to order the West Palm Beach Police Pension Fund Meeting on June 10, 2011 at 8:15 AM, in the conference room of the Palm Beach County Police Benevolent Association.

Present at the meeting: Edward Mitchell, Chairman, Jonathan Frost, Board Secretary, Chris Fragakis, Board Trustee and Troy Marchese, Board Trustee.

Also present: Ernest George, retired plan member; 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 May 13, 2011. Mr. Frost made the motion to approve the minutes, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 4-0.

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. Also presented was an Administrative Report of distributions and pension entry date adjustments due to buy backs. Mr. Frost made the motion to approve the foregoing, which was seconded by Mr. Marchese. All Trustees voted yes, and the motion was passed 4-0

ATTORNEY'S REPORT

At the request of Mr. Mitchell, Mrs. Jensen reviewed the Palm Beach County Code of Ethics. Attached hereto is the outline provided for the Board to consider.

ADMINISTRATOR'S REPORT

Mr. Williams sought further direction from the Board prior to sending out retiree affidavits. Mr. Williams spoke with Mr. George relative to the legislative intent of the change in the special act for remarriage. Mr. George outlined his position with regard to the 2001 amendment being retroactive. The Board advised Mr. Williams the matter would be reviewed on a case by case basis pending further legislative consideration.

Mr. Williams reminded the Trustees' to complete the required financial disclosure forms as prescribed.

Mr. Williams presented the amended investment policy and guidelines for execution. The changes were limited to a name change as a result of the retention of Eagle Asset. Mr. Frost made the motion to approve and execute the foregoing, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 4-0

Mr. Williams briefed the Board on the mid-year financial statements. Mr. Williams indicated the presentation should be made telephonically at the next meeting, by representatives from Davidson, Jamieson & Cristini.

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Mr. Williams was asked the status of the Gabriel Roeder Smith Report (dated May 12, 2011) which exhibited various scenarios' to pay down the Fund's unfunded liability. Mr. Williams indicated the matter was still being considered by the Board and that he would agenda the item for the next meeting along with any other actuarial issues that require closure. Representatives from GRS will be asked to attend the meeting telephonically.

Mrs. Jensen asked the status of Mr. Robertshaw. Mr. Williams indicated that neither he nor his staff has heard from Mr. Robertshaw. Mr. Williams reported that he did request the custodian to cease/suspend payments until further notice.

OPEN DISCUSSION

Mr. Williams reported that _____ completed an application for disability. Mr. Mitchell asked that Mr. _____ be sent for an independent medical examination as soon as possible. Mrs. Jensen advised that Mr. _____ medical records must be compiled prior to sending the member for examination, but would expedite all the requests. Mr. Fragakis made a motion authorizing Mrs. Jensen to identify and retain the necessary medical professional(s) to conduct an independent medical examination(s). This motion was seconded by Mr. Marchese. All Trustees voted yes, and the motion was passed 4-0.

ADJOURNMENT

Being there was no other business; the meeting was adjourned at 9:05 AM.

Next meeting is scheduled for July 8, 2011 at 8:15 AM

Jonathan Frost, Board Secretary

Attached hereto: Memorandum of June 9, 2011 from Bonni Jensen, Board Attorney


THE LAW OFFICES OF
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MEMORANDUM

To: Board of Trustees
West Palm Beach Police Pension Fund

From: Bonni S. Jensen 

Subject: Ordinances:

- Amending Palm Beach County Code of Ethics;
- Amending the Inspector Generals' Office; and
- Amending the Commission on Ethics.

Date: June 9, 2011

Effective June 1, 2011, the Palm Beach County Commission amended the County Code regarding the Palm Beach County Code of Ethics, the Inspector Generals' Office, and the Commission on Ethics.

JURISDICTION

This law is applicable to all 38 municipalities and the County. The Ordinances are applicable to pension plans as follows:

1. **Palm Beach County Code of Ethics** - The ordinance addresses the ethical conduct of Officials and Employees of the County and the municipalities of the County. Officials include members appointed by the county commissioners, mayor or local municipal governing bodies to serve on any advisory, quasi-judicial, or other Board of the county, state or other regional local municipal or corporate entity.

Note: This section appears to only cover Trustees appointed by the county or municipality. Trustees elected by the membership or Union would be covered as employees. The application to the Trustee appointed by the Board is not clear.

2. **Commission on Ethics** - The ordinance provides for the Commission's jurisdiction to "extend to any person required to comply with the countywide code of ethics, the county lobbyist registration ordinance, and the county post-employment ordinance" and may extend to additional local ordinances.
3. **Inspector Generals' Office** - The ordinance has several jurisdictional provisions:
 - a. Under Section 2-421, the law applies to:

- Board of County Commissioners and all county departments;
- The 38 municipalities that approved the charter amendment on November 2, 2010;
- Any other public entity that elects to be bound by the Article by entering into a memorandum of understanding; and
- Any municipality formed after January 1, 2011.

Note: This section does not clearly include pension funds and other boards.

- b. Under Section 2-423, the inspector general has authority to make investigations of county or municipal matters and conduct audits of "all elected and appointed county and municipal officials and employees" and entities receiving county or municipal funds.

LAW PROVISIONS

1. Code of Ethics

2-443 Prohibited Conduct:

- a. Misuse of office - Official shall not use his or her office for the special financial benefit of:
 - himself/herself
 - spouse or domestic partner
 - other relatives or their spouses or domestic partners
 - outside employer
 - customer or client of outside employer
 - substantial debtor or creditor (substantial means at least \$10,000)
 - a not for profit organization that he or she (or their spouse or domestic partner) is an officer or director.
- b. Corrupt misuse of office - corrupt means "done with wrongful intent" and for purpose of obtaining a benefit inconsistent with the performance of public duties.
- c. Disclosure of voting conflicts - Requires members to file Form 8b for any of the situations in **a** above and the form must also be submitted to the County Commission on Ethics.
- d. Contractual relationships - Officials and employees cannot conduct business

with their respective county or municipality. The prohibition does not apply to advisory board members if the subject contract or transaction is disclosed at a public meeting and the advisory board does not regulate such contract or transaction.

Note: Is the Pension Board an advisory Board?

- e. Exceptions and waiver - provides for waivers of subsection d.
- f. Travel Expenses - No official or employee shall accept any travel expenses from any contractor, vendor, service provider, bidder or proposer including:
 - transportation;
 - lodging;
 - meals;
 - registration fees; and
 - incidentals.

Note: The Board of County Commissioners or the local municipal governing body can waive the requirements of this section by majority vote.

Note: The provisions do not prohibit expenses paid by other governmental entities or organizations of which the "county" or "municipality" is a member if the travel is related to that membership.

Note: This section does not seem to apply to advisory boards, just officials and employees in their personal capacity. Vendor definition refers to County or municipal vendors, service providers, or contractors.

- g. Contingent fee prohibition. No person may pay give or agree to pay a contingency fee. No person may receive or agree to receive a contingency fee.
 - "Contingency fee" means compensation (including non-monetary) which is dependent upon passage, defeat or modification of a legislative act, action or decision.
 - Ordinance does not prohibit real estate brokers acting in the course of their profession.
 - Ordinance does not prevent the receipt of a commission to a salesperson in legitimate governmental business.

- Ordinance does not prohibit an attorney from representing a client in a judicial proceeding for formal administrative hearing pursuant to a contingent arrangement.

- h. Honesty in applications for positions.
- i. Disclosure or use of certain information. Current and former officials and employees cannot use insider information for their own or another person's personal gain or benefit.

2-444 Gift Law:

- a. No covered person may solicit or accept a gift with a value greater than \$100.00 in the aggregate for the calendar year from any one who is a vendor or a lobbyist. No vendor or lobbyist can give a gift with a value greater than \$100.00 in the aggregate for the calendar year to any official or employee,

Note: Standard is whether the person knew or should have known that the donor was a vendor, lobbyist, official or employee.

- b. Same rule as **a** above for advisory boards limited to vendors and lobbyists of the board.
- c. This section prohibits solicitation of gifts by officials or employees for their personal benefit or the personal benefit of a relative or household member of the official or employee.
- d. This section defines the principal or employer of a lobbyist includes officers, partners or directors of the principal or employer entity.
- e. This section prohibits the giving and receiving of a gift if it is given or received for the performance or non-performance of official duty.
- f. Any official or employee who receives a gift in excess of \$100 shall report the gift.
 - Reporting individuals shall file a copy of the gift reports required by §112.3148 with the county commission on ethics.

Note: Trustees are reporting individuals.

- Non-reporters under state law:

- These individuals are not required to report gifts in excess of \$100 from a personal friends or co-worker provided it is not to influence the performance of the official or employee's duties.
 - If the personal friend or co-worker is a vendor, lobbyist, or principal or employer of a lobbyist, then the official or employee may not accept a gift in excess of \$100.
 - All other gifts in excess of \$100 must be reported by November 1, 2011 of each year beginning November 1, 2011 on a form created by the county commission on ethics.
- g. A gift is the transfer of anything of economic value without adequate and lawful compensation. Food and beverage at a single sitting is a single gift. Recipients may consult Florida Statutes 112.3148 and the Florida Administrative Code for determining the value of gifts.
1. Gift does not include:
- Political contributions
 - Gifts from relatives, domestic partners and dependents named in the tax return or one's household member.
 - Awards for professional or civic achievement
 - Gifts solicited or accepted in performance of official duties for use solely by the governmental employer for a public purpose
 - Publicly advertised offers for goods and services available to the general public
 - Inheritance or other devise
 - Registration fees and other costs associated with educational or governmental conferences, either waived or inapplicable pursuant to section 2-443(f) provided attendance is for governmental purpose;
 - Ticket or admission to public events related to official county or municipal business if furnished by a non-profit sponsor or pursuant to contract between event's non-profit sponsor and the county or municipality, provided the sponsor does not employ a lobbyist and it is not given by a lobbyist. These tickets must be disclosed under the gift law reporting.
 - expenditures made in connection with an event sponsored by a nonprofit organization funded in whole or in part with public funds whose primary purpose is to encourage and attract tourism provided the organization does not employ a lobbyist and the invitation is made by a representative of the organization who is not a vendor or lobbyist, principal or employer of a lobbyist.

- h. Solicitation of contributions on behalf a non-profit charitable organization. This type of solicitation is permissible so long as there is no quid pro quo. Solicitation is prohibited if the person or entity has a pending application before the county or municipality.

Note: These transactions shall be disclosed on a county commission on ethics form which will include the entity for whom the funds were solicited as well as the entity that was contacted for the solicitation and the amount solicited or pledged.

Note: County or municipal staff and resources may not be used for these solicitations.

2-445 Anti-Nepotism law - An official or employee may not employ, promote, advance or advocate for hire, promotion or advancement of a relative or domestic partner in a county or municipal position in which the official or employee is serving or exercises jurisdiction or control.

Note: This section does not apply to volunteers in police/fire or appointments to boards other than land use planning or zoning boards if the municipality has less than 35,000 in population.

Note: Relative means spouse, parent, child, sibling, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, step mother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

2-446 Ethics Training - Ethics training is available.

2-447 Noninterference - It is a violation of the Ordinance to retaliate against person cooperating with the commission on ethics or the inspector general or to interfere in an investigation.

2-448 Administration, enforcement and penalties

- a. Commission on ethics is empowered to review, interpret, render advisory opinions and enforce the code of ethics.
- b. A finding of a violation shall subject the person or entity to a public reprimand, a fine up to \$500.00 or both. Restitution may be ordered.
- c. If violation resulted in a contract or other benefit, then that contract or benefit may be rescinded.

d. Willful violations of Prohibited conduct sections, certain gift law violations and Noninterference may be reported to the State Attorney's office and may subject the violator to prosecution for a first degree misdemeanor with a fine up to \$1,000 and up to one year in jail.

2. **Commission on Ethics:** This ordinance establishes the Palm Beach County Commission on Ethics to review, interpret, render advisory opinions and enforce the Palm Beach County Code of Ethics countywide.

3. **Inspector General's Office:** This Ordinance establishes the Office of the Inspector General.

2-423 Functions, authority and powers

1. Inspector General has the authority to:

- a. make investigations of county or municipal matters and publish the results;
- b. review and audit past, present, and proposed county or municipal programs; and
- c. prepare reports and recommendations to the board of county commissioners ("board").

Note: Parties receiving county or municipal funds shall fully cooperate with the Inspector General.

2. Inspector General has the authority to conduct audits of the board, each municipality, county administrator, city administrator, city manager, or other municipal executive, **all elected and appointed county and municipal officials and employees**, county and municipal departments, divisions, agencies and instrumentalities, contractors, their subcontractors and lower tier subcontractors, and other persons and entities doing business with the county or a municipality and/or **receiving county or municipal funds** regarding any such contracts or transactions with the county or municipality. **"Except as otherwise limited in this subsection, the inspector general's jurisdiction includes but shall not be limited to all projects, programs, contracts or transactions that are funded in whole or in part by the county or any municipality."**

Note: Terms "officials" and "employees" are not defined.

3. The Inspector General has the authority to require production of documents,

to require parties receiving county funds to provide statements; and, to administer oaths.

4. If a violation of any laws are suspected, the Inspector General shall notify the appropriate law enforcement agency. The county or municipal management must promptly notify the inspector general of possible wrong doing within the Inspector General's jurisdiction.
5. Inspector General has the authority to audit, investigate, monitor, inspect and review the procurement process.

Note: It is not clear which Entities' procurements are subject to this section.

6. Inspector General can receive complaints.
7. Inspector General can initiate investigations on own initiative.
8. Inspector General shall be notified in writing prior to any meeting in which procurement selection committee is meeting related to procurement of goods or services "by the county or any municipality."

Note: Not clear that this section applies to pension funds.

9. Special districts and other public officials may elect to be subject to the jurisdiction of the Inspector General by a agreement or memorandum of understanding.

Note: Entities electing to participate will be subject to fees to fund the office of the Inspector General.

10. Inspector General records are confidential.
11. Inspector General is considered a "whistleblower" under the law.
12. The Inspector General may recommend remedial action and provide prevention training.
13. Inspector General shall establish policies and procedures and monitor costs of investigations.
14. This law is not intended to abridge collective bargaining rights.