Police Officer Board of Trustees
Of the Town of Palm Beach Retirement System
MINUTES OF MEETING HELD
June 21, 2005

I. CALL TO ORDER

Chairman George Frick called a meeting of the Police Officer Board of Trustees for the Town of Palm Beach Retirement System to order at 2:04 PM on June 21, 2005, in the Town Council Chambers. Those persons present included:

TRUSTEES	OTHERS
George Frick, Employee Member Trustee	Scott Baur, Administrator
Raymond Snow, Town Appointed Trustee	John McCracken, Attorney
James McC. Wearn, Town Appointed Trustee	
Gerald Goldsmith, Fifth Trustee	
Mike Lynch, Employee Member Trustee	

II. APPROVAL OF AGENDA

Retired Police Chief Frank Croft, a member of the plan, asked to address the Board of Trustees.

Mr. Wearn made a motion to approve the Agenda. Mr. Snow seconded the motion, passed by the Trustees 5-0.

Mr. Croft thanked the Trustees and complimented the Board on the recent enhancements to the benefits, particularly the recent decision by the Town Council to extend the higher multiplier previously granted to active members to members in the DROP. Mr. Croft stated that for benefit changes prior to 2001, retired members going back to George Frost typically received benefit changes granted to active members of the plan. According to Mr. Croft, work on the multiplier increase granted in 2001 began prior to the date of his own retirement in April of that year.

Mr. Croft said that the retired members wanted to know why, in this case, they did not receive the benefit increase along with the active members of the Public Safety Retirement System. Mr. Croft noted that the retired General Employee members of the Town of Palm Beach Retirement System did in fact participate in an increase to the multiplier granted to active members of that plan at that time. Mr. Croft asked the Board to request a cost estimate from the actuary to determine the cost to include the retired Public Safety members of the Town of Palm Beach Retirement System in the increase in the multiplier to 3.25%. Mr. Croft stated that the Board should properly study and consider such changes for the members of the plan.

Mr. Goldsmith responded that the Board should determine the facts and respond accordingly. Mr. Croft added that the active Public Safety members of the plan previously contributed 9.98% of payroll to the Retirement System. According to Mr. Croft, those members are now unable to make ends meet financially. Mr. Croft again thanked the Trustees for their consideration.

Mr. Wearn provided corrections to the draft minutes for the meeting of June 7, 2005. Scott Baur, meanwhile, distributed new copies at the beginning of the meeting of the draft minutes for the meetings of February 10, February 18, March 10, and June 7 that incorporated all of the comments and revisions previously made by the Trustees.

III. PRESENTATIONS BY ATTORNEYS

Robert Klausner

Bob Klausner thanked the Board of Trustees. He stated that his firm only provides counsel to public retirement systems all over the nation; that he began to deal with retirement systems immediately after he graduated from law school some years before; and that his clients include 35 other public retirement systems in Florida, many of which are public safety plans. Mr. Klausner reviewed his activities in the specialty of retirement system, which includes the drafting of ordinances; teaching at the Trustee Schools conducted by the Division of Retirement; and teaching law at the university. Mr. Klausner stated that his firm does no other kind of work.

Bob Klausner said that the pension Board of Trustees must have confidence in the advice provided by counsel, but he would not presume to usurp the authority of the Trustees when making decisions. Mr. Klausner then stated that only his firm hosts an annual conference for the education of Trustees serving on his Boards. Mr. Klausner takes Trustee education very seriously.

Sgt. George Frick asked who would attend the meetings on behalf of Mr. Klausner's firm, in the event that Mr. Klausner was not available. Mr. Klausner stated that Stuart Kauffman would attend the meetings of the Trustees in the event of a conflict. Mr. Wearn asked how long the conference run by Mr. Klausner lasts. Mr. Klausner said that the annual conferences lasted for three days, with a comprehensive agenda of topics. Mr. Klausner provided examples of some of the topics addressed at his conference. Mr. Wearn then asked about the litigation experience for Mr. Klausner. Bob Klausner responded that he now has a case pending in the 6th Circuit in Kentucky, 5 federal appellate cases, and numerous cases in state jurisdictions. His firm has 2 cases currently pending before the Alaska Supreme Court. Mr. Klausner noted that pensions frequently become involved in litigation, since often the members of plans do not like the answers that the Trustees must give. Mr. Klausner provided examples of additional issues that sometimes bring pension boards into litigation. Mr. Klausner concluded by noting that his firm had no failures resulting from advice given by counsel or breach of fiduciary.

Mr. Snow questioned the capacity of the firm, noting the many significant clients. Mr. Klausner stated that, if the Board wanted him to personally attend meetings of the Trustees, then he would represent his firm. Mr. Klausner said that he also handles all written legal opinions and litigation for his firm. George Frick asked if Mr. Klausner provides any kind of newsletter or Email regarding events in the industry to the Trustees. Mr. Klausner stated that he posts a legal update to the firm website. He also recently sent a letter to clients regarding a series of questions issued by the Department of Labor recommending questions that pension plans should address to their pension consultants. Mr. Klausner stated that he would keep the Board updated on other relevant matters as well. The Trustees thanked Mr. Klausner for his presentation.

<u>Bonni S. Jensen</u>

Bonni Jensen provided a handout to the Trustees. She stated that her firm specializes in employee benefit matters, with an emphasis on municipal pension funds, and Ms. Jensen does only pension work. Ms. Jensen then described the kinds of items that her firm would handle on behalf of the Board. Ms. Jensen said that she would advise the Board and interpret documents on behalf of the Trustees. Bonni Jensen stated that her firm represents 27 other pension plans. She also indicated that her firm could litigate on behalf of the plan if necessary.

Ms. Jensen described the service orientation of her firm and the timely response to matters that affect the Board. She said that she participates in numerous pension conferences as a speaker, and she has covered many topics. Nineteen of her pension clients are in Palm Beach County. The South Florida Legal Guide named Ms. Jensen the Top Pension Attorney in 2005.

Mr. Goldsmith stated that the Retirement System hires a legal advisor and an investment consultant. He asked Ms. Jensen how involved she gets in the investment issues before the Board. Ms. Jensen responded that she often gets involved in the process to hire these other service providers retained by the Board. She would determine that the Investment Policy conforms to the requirements of Florida law, and as a fiduciary to the plan, she indicated that she shares in the responsibility to make sure that the investment managers adhere to the Investment Policy.

Mr. Snow asked Ms. Jensen if her representation of the Firefighter Board of Trustees would prove beneficial, detrimental, or whether her representation of the other Board would not matter. Bonni Jensen replied that there should by some synergy between the Boards. Mr. Wearn inquired about the experience of Jill Hanson as a backup for Bonni Jensen, noting that Jill Hanson has more experience in employee benefits. Ms. Jensen noted that Jill Hanson serves as legal counsel to another pension board, but she herself has missed only two meetings of her Boards in 15 years.

Sgt. Frick asked whether Ms. Jensen has a website or newsletter that provided information to the Trustees. Ms. Jensen responded that she frequently addresses correspondence to the Trustees on topics relevant to the Board. Mike Lynch asked if might experience a conflict of interest representing the Firefighter Board of Trustees, similar to the conflict that John McCracken has as his firm represented the Town. Mr. Jensen noted that she has never had a conflict in municipalities where she has represented more than one plan. Ms. Jensen thanked the Trustees.

IV. MINUTES

Mr. Wearn stated that he had comments on all sets of the pending minutes, and he would like the opportunity to review the changes prior to approval by the Board.

Mr. Wearn made a motion to defer approval of the Minutes for the meetings of February 10 and February 18 until the next meeting of the Board to allow time for additional review. Mike Lynch seconded the motion, passed by the Trustees 5-0.

Mr. Wearn made a motion to defer approval of the Minutes for the meetings of March 10 and June 7. Ray Snow seconded the motion, passed by the Trustees 5-0.

V. ATTORNEY REPORT

John McCracken contacted the representative for SSgA and received new agreements with the correct name for the plan. Mr. McCracken stated that SSgA also agreed to execute the agreements dated for October 1, 2004. SSgA, however, could not state compliance with the Investment Policy, since the manager cannot specifically adhere to a set of external investment guidelines for a commingled product. Therefore, the representative for SSgA indicated that the plan must use its own Investment Consultant or fiduciary to determine suitability of the product. John McCracken received a copy of the executed agreements; however, he required a new set of agreements from SSgA since the executed copies did not correctly state the name of the plan.

Mr. Wearn asked about other changes to the agreements with SSgA requested by the Board. Mr. McCracken reported that SSgA agreed to all of the other changes as requested, except for the venue provisions contained in the contract. John McCracken stated that SSgA also did not incorporate the prudent man rule provision into the agreement for an indexed product. Mr. Snow explained the composition of the portfolio for a true index product. Mr. Wearn responded that he did not have a problem provision specifically for this type of an investment. Finally, John McCracken reported that the submitted agreement has a Massachusetts governing law provision that he wants removed.

Sgt. Frick asked if SSgA had become more responsive. John McCracken said that he had no difficulties dealing with the company. Mr. Snow added that the Board should have no difficulty dealing with SSgA, since State Street also acts as the custodian for the plan. John McCracken reminded the Trustees that the Prime Buchholz considered numerous index products, but State Street offered the most competitive product in the end. The equity index portfolios have an annual fee of 5 bp, while the fixed income index portfolio has an annual fee of 6 bp.

Mr. Goldsmith made a motion to execute the agreements with SSgA, subject to correction of the name of the plan. Ray Snow seconded the motion, approved by the Trustees 5-0.

John McCracken provided a proposed ordinance clarifying that a firefighter or police officer could only purchase prior qualifying service credit as either a firefighter or a sworn officer. George Frick questioned if the ordinance had separate parts for the portions of the Retirement System ordinance for Fire and Police. John McCracken explained that the ordinance has four sections, one section containing common provisions for all of the plans and another section for each of the three plans. Mr. Goldsmith asked about the purchase of prior military service credit, which the ordinance drafted by John McCracken does not address. Mr. Wearn noted a typographic correction on one section of the proposed ordinance.

Scott Baur suggested that the ordinance could also simplify the buyback provisions for the plan. The ordinance previously allowed members to purchase governmental service credit during the first 5 years of service, with a separate provision for the purchase of service credit for any reason following completion of ten years of service. Mr. Baur explained that members often became confused about when they can purchase service credit. Since a member pays for the full actuarial cost of the additional service credit as determined by the actuary, Mr. Baur asked the Board to consider allowing member to purchase qualifying service credit at any time. Sgt. Frick agreed that the members of the plan often become confused about the buyback provisions. After some discussion, the Board determined that simplification of the provisions should be addressed as a separate ordinance. The proposed ordinance, meanwhile, addressed the concern raised by the Division of Retirement that members should only purchase prior qualifying military, police, or fire service credit.

Mr. Goldsmith made a motion to forward the proposed ordinance to the Town Council for consideration. Mike Lynch seconded the motion, approved by the Trustees 5-0.

Scott Baur described a problem with the service credit for members of the plan recorded by the Town. During the transition of data from the Town, he identified four firefighters and two police officers with prior service in the Town as general employees. The Town included this service credit in the total service attributed to the members under the public safety plan. Just as members cannot purchase prior governmental service credit except for qualifying military, police, or fire service, police officers or firefighters cannot receive benefits from a Chapter Plan under Florida Statutes for service as a general employee. Mr. Baur stated that these members should normally receive a separate benefit from the Town of Palm Beach Retirement System for General Employees for service rendered as a general employee. He reported that the ordinance for the Town of Palm Beach Retirement System, however, contained no provisions describing the coordination of benefits for members with service under more than one plan. The Trustees asked Mr. Baur to summarize recommendations for the next meeting to correct the problem.

The Board took a short recess.

VI. PRESENTATIONS BY ATTORNEYS

Steve Cypen

Steve Cypen thanked the Board for the opportunity to address the Trustees. Mr. Cypen stated that he represents only pension Boards of Trustees, and he has no other allegiance than to the Board. He has represented pension plans now for 40 years, while his firm has done so for 60 years. Mr. Cypen reported that his firm consistently receives high independent ratings. He stated that his firm also carries $5 million coverage for errors and omissions. Mr. Cypen said that Alison Bieler is the only associate in his law firm.

Mr. Cypen acknowledged that plans should try to avoid litigation; however, his firm has been involved in some of the landmark cases in Florida in situations where litigation became necessary. Raymond Snow asked how Steve Cypen divides the work in his office with his associate. Mr. Cypen responded that he serves as the primary contact for all of the Boards at quarterly meetings. The Board noted that the Trustees meet on the second Thursday of the second month of each quarter. In situations where a conflict arises, Steve Cypen indicated that Alison Bieler would serve as his backup. He noted that he could save time and expense to the Board, however, by attending some meetings by phone.

Steve Cypen described a weekly Email that he sends on current pension issues. He then discussed the hourly fee arrangement requested by the Board. He stated that he preferred to work under a retainer arrangement, since the hourly fee often discourages Trustees from consulting with his office as appropriate. Mr. Cypen charges retainers for plans ranging from $1,000 to $6,000 per month. Mr. Cypen said that most litigation for pension plans involves appellate proceedings resulting from denial of benefits by the Board of Trustees. Mr. Cypen also noted that his firm wrote significant portions of HB 99-1 and Chapters 175 and 185, Florida Statutes, legislation having an impact on plans throughout Florida including the Town of Palm Beach Retirement System.

Mr. Wearn stated that the Police Officer Board of Trustees served as the successor to the Public Safety Board of Trustees for the Town of Palm Beach Retirement System. As the successor, Mr. Wearn said that the Board inherited investments in hedge funds. He asked Mr. Cypen if his firm had any experience with law regarding the fiduciary duties of Boards related to investments in hedge funds. Steve Cypen responded that hedge fund investments lack transparency, so he tends to be very cautious about such investments. As fiduciaries, Steve Cypen advised that the Trustees should be able to look back to see if they made the right decisions. He also stated that the Trustees should completely understand the fees in the product, which tend to be higher than for other investments. He recommended that the Board maintain good diversification when using hedge funds in the portfolio. Mr. Cypen reported that he has only one other public pension plan that currently invests in hedge funds.

Mr. Cypen explained that the goal for a defined benefit plan is not always to make as much money as possible, but rather to have enough money to pay benefits. He advised that Boards should not allow immediate gratification to replace sound judgment.

The Board asked Mr. Cypen how he allocates his time among 40 pension plans. Mr. Cypen responded that he usually attends about 20 meetings each month. He said that he does not need to always attend the entire meeting, since many issues do not necessarily involve the attorney. Mr. Wearn inquired about Mr. Cypen about his litigation experience. Steve Cypen described his relevant experience, and he reported that he has never lost a case to Robert Klausner. The Trustees thanked Mr. Cypen.

<u>Discussion</u>

The Trustees asked Mr. Baur for his opinion regarding the presentations. Mr. Baur currently works with all three attorneys on other plans. He observed style differences between the three firms, but he stated that the Board in this case could not make a bad or wrong decision as all three attorneys provide excellent counsel to their clients. Mr. Wearn stated his preference for a firm that represents only pension boards, so he does not favor the firm of Hanson, Perry, and Jensen. Mr. Wearn noted that both Steve Cypen and Robert Klausner appeared to have excellent qualifications to practice "preventive law", yet both firms could represent the Police Officer Board of Trustees well in any litigation. Mr. Wearn added that the firefighter and police officer employee groups now have different objectives, and he continues to have some concern that an attorney representing both Boards might encounter another conflict situation.

The Board expressed some concern that the firm of Cypen and Cypen had sufficient depth to cover the work load associated with their client base. Mr. Snow stated that the firm of Robert Klausner appeared to have greater depth, with two well-qualified associates. Sgt. Frick reported that he personally dealt with Mr. Klausner on previous occasions. Finally, the Trustees indicated a preference to have counsel attend all meetings of the Board.

Mr. Wearn made a motion to enter into an agreement with the firm of Klausner and Kauffman to provide legal counsel to the Board, with Robert Klausner to act as the primary contact and Stuart Kaffman as the backup. Raymond Snow seconded the motion, approved by the Trustees 5-0.

The Board directed John McCracken to prepare an appropriate agreement to retain the services of Klausner and Kauffman.

VII. OTHER BUSINESS

Scott Baur reported that Mr. Wearn suggested that the plan use its own letterhead as appropriate for future correspondence, Board agendas, and matters relating to the Police Officer Board of Trustees. He will begin to use plan letterhead.

VIII. ADJOURNMENT

There being no further business and the next quarterly meeting having been previously set for Thursday, August 11, at 9 AM, the meeting adjourned at 4:02 PM.

Approved: _________________________________