MINUTES OF THE INVESTMENT ADVISORY COMMITTEE
FRIDAY, FEBRUARY 16, 2007
TOWN COUNCIL CHAMBERS

I. CALL TO ORDER AND ROLL CALL

The Investment Advisory Committee Meeting was called to order on February 16, 2007 at 9:00 a.m.

On roll call, the following committee members were present:

Investment Advisory Committee
Chair Michael F. Andrews
Vice Chair Edward L. Hennessy, Jr.
Stephen L. Brown
William J. Mikus
Bernard R. Panfel

Others in Attendance
John Randolph, Town Attorney
Sean Higman, Prime Buchholz & Associates

Town Staff
Jane Struder, Finance Director
Cheryl Somers, Assistant Finance Director
Betty Cotton, Recording Secretary

II. PLEDGE OF ALLEGIANCE

Chair Andrews led the pledge of allegiance.

III. APPROVAL OF AGENDA

Vice Chair Hennessy made a motion for approval of the agenda. Mr. Brown seconded. Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT PLEASE)

No citizens attended.

V. APROVAL OF MINUTES FROM THE JANUARY 25, 2007 MEETING

Mr. Brown had one change on the minutes, page 31, 5th paragraph, "Mr. Brown said if invested in fixed income, there has been a period of time for several years now where it's very, very hard to be in money market accounts". This should read "to beat money market accounts". The correction will be made.

Vice Chair Hennessy made a motion to approve the minutes with the correction. Mr. Brown seconded, motion passed unanimously.

VI. INDEMNIFICATION OF COMMITTEE MEMBERS

Mr. Randolph said Ms. Struder provided him with a copy of the minutes from the January 25, 2007 meeting. 111.07, which is the statute that he cited in his letter, is the section that authorizes the Town to provide a defense unless an officer acted outside the scope of his authority. He got the impression from seeing the comments that the board would be happy if rather than the word authorize, it indicated that "the Town shall provide legal defense unless the committee acted outside the scope of their authority". He thinks that is a point well taken and one that the committee could recommend go to the Town Council for consideration. He has some concerns about straying from the wording of the State Statutes as they relate to indemnification because he believes that the board is fully covered as it is under the State Statutes.

He has been working with the Town twenty seven years and has had several lawsuits where the Town was sued and the Town Council members are named in the lawsuit. A defense was always provided. The same thing happens with employees. If a police officer is sued because of some action such as a false arrest, etc., a defense is always provided. He cannot remember a time when the Town has not provided a defense. The only time they would not would be, if at the outset, a decision was made that the officer was acting outside the scope of his ability.

He saw another concern stated in the minutes where one or more members indicated that they were not satisfied with his position because it indicated that the Town would not provide a defense for indemnification until the end, and that committee members would, therefore, be spending years paying for their own counsel and could be out of pocket a lot of money. He stated he did not say that in his letter and what he indicated in his letter was that the Town would provide a defense but that the Town should have an opportunity at the outset to review the facts and make a determination as to whether or not an officer acted inside or outside the scope of his ability. It behooves the Town to provide that defense because if they do not, and an officer goes all the way through the trial and it is found at the end that he acted within the scope of his authority, then the Town would be liable for that money.

He believes that it is reasonable for the committee to ask these questions. He did see some comment in there that the committee would like, if changes are made, that these changes apply to all boards throughout the Town. He said he has never seen that concern. He has seen concerns raised as to, "what is our liability"? But they have been able to satisfy these concerns by saying that they are covered under the State Statute. He has never been in a position where someone has suggested that an ordinance be proposed over and above what the State Statute provides. He checked with his contemporaries, the attorneys at the Florida League of Cities, and asked them if they know about any other city that has asked for the type of ordinance that is being discussed. Their reply was that they have not seen that. That is not to say these are not good points and concerns being raised but he still believes that the committees are adequately covered under the State Statutes.

If the committee feels that they would like to see some sort of change go to the Town Council, that is within the parameters to do that. There is an ordinance that has been drafted by an individual of the Town that he has looked at. He is not prepared to talk about the details of that ordinance today. He does have some concerns. He is scheduled to speak with this individual next week about the ordinance prior to it going to the Town Council for their consideration.

He said he would be happy to answer any questions.

Chair Andrews said it is his understanding that some of the members of this committee have been in situations where they have been sued just because of their position as a former chairman of a fairly large organization. They were sued almost like a class action suit, and were thrown into the mix. Obviously, they believed that there was little credence in what they were being sued for but they were still there. So the Town Council has had more experience in this matter from a business standpoint than any of the members on similar committees. He just wanted Mr. Randolph to know where the committee is coming from.

Mr. Randolph said he understands and as he indicated earlier, that is typical for the individuals to be sued along with the Town as a corporate entity. But a defense has always been provided for individuals as well as the Town because there has never been a situation where someone has acted outside the scope of their authority.

Chair Andrews asked if he is providing this service at his discretion based upon whether he believes it fits inside the scope of their authority?

Mr. Randolph said they have never really had an instance of a Town Council member or even a committee member being sued. They have had some cases where members of the Landmarks Commission were sued. He has never had an opportunity where the Town has really had to review the situation to make a determination as to whether they have acted outside the scope of their authority. All they did was vote as a Town Council member or as a Landmarks member and they have absolute immunity for their legislative actions and the qualified immunity for their discretionary actions. They are protected under768.28. There has not been a situation where the record has had to be reviewed to make a determination before defending the Town Council members. Where that has not happened is if they have not represented a police officer or provided a defense. Sometimes a police officer cannot be represented if there are allegations that they have acted outside the scope of their authority. Other counsel has been found for the officers and the Town has paid for those police officers’ defense in those cases.

Chair Andrews asked in advance or in arrears?

Mr. Randolph replied as it is going on. If he represented the Police Department and there is an allegation that a police officer acted outside the scope of his authority, it would be a conflict of interest for him to be representing both the Police Department and the police officer. As a matter of practice, he has always provided and paid for counsel in those particular instances.

Chair Andrews opened up the discussion to the committee members.

Mr. Brown said he does want to bring the committee up to date on where they are on several issues that came up. At the last meeting, the committee was told as advisors they could not be sued. The legal advice he has received indicates otherwise. Anybody can sue anytime, anywhere, for anything. He thinks the committee got bad advice on that. He asked Mr. Randolph to comment on that.

Mr. Randolph said he read those minutes and although it was not something that he has been asked to comment on, he would agree that anybody can be sued for anything, whether it would be a meritorious claim is another thing altogether.

Mr. Brown said he does not pretend to be an expert on liability. His business was life insurance where it was pretty clear whether a claim was valid or not unfortunately. But he did review the two policies that were sent to the committee, one being the fiduciary liability policy, which he thinks is actually a pretty good policy, better than the ones he has reviewed in the past. It does not have a deductible, the exclusions are relatively not too onerous, and as those policies go, it is pretty good.

He further stated the committee was then told that they had some coverage under the Town's general liability policy as advisors. He read that policy, and in all honesty, there are so many ifs, ands, and buts in that policy, he could not come to any strong conclusion that they are well protected by that policy. He kind of came to the conclusion that the committee should not have to worry about those things and that they should not have to dissect every policy in detail. He can also say from experience that these policies change from year to year. He has had experiences in other organizations where amendments are slipped in year to year to change the meaning of the exclusions coverage.

Because of all the experience he has had including being sued personally on several occasions which is never fun, he thought that the committee should be indemnified on a mandatory basis particularly considering the fact that they are unpaid volunteers. If anybody wants to start paying them, maybe they can say they are being paid to take risk. He does not think they should have to take any risk of having to put their hands in their pockets. All of the people he has talked to seem to agree with that.

He did ask Bill Guttman, who has also coordinated with a well known Florida lawyer, Michael Alan Wolfe(sp?), a professor of the Florida Law School to develop an ordinance on this issue. That ordinance has been drafted. He does not want to pass it out because Mr. Randolph has not had a chance to discuss it with these lawyers. Basically, he would characterize it as a mandatory indemnification that says if they are sued as individuals that they will be covered by the Town. The Town has insurance and hopefully they would be reimbursed by the insurance. In return, they would sign a statement that says that if they were ultimately found in court that they had acted outside the scope of their duties, then they would have to return the funds that have been advanced. So it puts the individual in a position where he or she doesn't have to worry about what the process is and doesn't have to worry about whether any circumstance can come up where they have to put their hands in their pockets. At the end, if they really are found to be guilty of something, then they have to return those funds. He thinks that is the fair way to do it, particularly, as he mentioned, since they are not charging anything for their services.

Mr. Randolph said he thinks he has made the comments in regard to the ordinance. He had some initial concerns with it but has not had an opportunity to discuss that with Bill Guttman. They are scheduled to do that next week.

Mr. Brown stated Mr. Randolph has heard conceptually what he is trying to do in the interests of the committee. The committee is interested in having him continue.

Vice Chair Hennessy said absolutely.

Chair Andrews agreed that they should continue the exploration of the issues on both sides. Perhaps at the next meeting, someone could give a synopsis, maybe Mr. Randolph, about what he would do and what he would not do based upon that information. Would that be acceptable to the members of the committee? He asked for comments.

Mr. Panfel said he thinks that is a reasonable approach.

Mr. Brown said he agrees. There is a question on when this gets on the agenda of the Town Council. He had been aiming for March but if another meeting is needed on this, that is fine. It is not the timing, it is the result.

Chair Andrews said he thinks under those circumstances this committee may not have a chance to vote on it or endorse it.

Mr. Randolph said unless it is postponed until the April meeting of the Town Council and have it come back here first.

Chair Andrews said the committee doesn't know if another meeting has been scheduled or if they need one. Based on what Mr. Brown said, the committee could endorse Mr. Brown's letter or his position to the Town, and state somehow in a legal and proper way that there is agreement between the proposal and the Town checking it out and that Mr. Randolph and Mr. Brown agree that it would be forwarded to the Town Council.

Mr. Brown said he thinks at this point there is a significant probability that they won't because he thinks Skip feels strongly in one direction and he feels strongly in the other direction. He thinks that the committee is going to have to take a point of view.

Chair Andrews said if there is an agreement, it can go to Town Council. If there is no agreement, the committee will meet again and discuss.

Mr. Brown said yesterday he presented the concept, not the specific language, to the Civic Association Executive Committee and they unanimously supported the concept.

Chair Andrews asked Mr. Brown, since he mentioned that he thought it would be good for all other committees of the Town, if he could run this proposal by the other committees?

Mr. Brown said that would be difficult to do. There are a lot of committees.

Chair Andrews said he is referring to the pension boards only. Since this committee is saying they think it would be good for all committees and he is not sure if this committee is speaking for all committees.

Mr. Brown said of all the people he has talked to informally, there is no doubt that they are in favor. He cannot talk to everyone. He is not sure how to accomplish that.

Mr. Randolph said he would urge that the committee try to get it resolved at this level before it is raised at all of the other committee levels. All of these committees have been satisfied for the last hundred years with what has been going on.

Vice Chair Hennessy said they have never been sued.

Mr. Randolph said they have and this is the first time it has been raised and he is not saying they are not good points but he just hates to have this discussion coming up at all the other committees.

Mr. Brown said in all his informal talks with other people, including some that sit on the executive committee of the Civic Association, they had no idea that there was any possible way that they would have to put their hands in their pockets under any circumstances.

Mr. Randolph asked even if they acted outside the scope of their authority?

Mr. Brown said they have only the vaguest idea of what the legal situation is. They think if they have insurance, the Town will cover whatever is left. When he described the situation to them in an intelligent layman's way, they were shocked that the Town would actually take the position that they are not going to provide the maximum legal support to unpaid volunteers.

Mr. Randolph said but the Town has never taken that position.

Mr. Brown said if each case is going to be treated on a discretionary case by case basis, that is quite different than a mandatory indemnification and it is unpredictable what is going to happen. Another alternative, in comparing committees to policemen, is to pay the volunteers. "If you want to pay us, then we can take some risks".

Mr. Randolph said the only time they have used that discretion is in the instance of a police officer. It has never been used when a full board has been sued along with the Town as a corporate entity. He suggested perhaps Mr. Brown is taking something that he said in his letter to mean that they are going to look at each case and use their discretion to determine whether or not there has been action outside the scope. From a practical standpoint, that is not happening. If someone were obviously guilty of fraud in the use of monies of the Town, then they would want to have the ability to say, "I'm sorry, you do not have representation", if that can be obviously determined. And, that is what he meant in the letter when he said the Town should have an opportunity to look at that and make a determination before they provide a defense. Otherwise, they provide a defense across the board.

Mr. Brown said he thinks it is very difficult for the Town, particularly in a public setting, to go through this kind of process without the possibility of jeopardizing an individual's legal situation. He worries about creating a roadmap for plaintiff's attorneys, about politicization of discussions that are done in public, about the conclusion the Town reaches that may jeopardize an individual's position in court perhaps without representation. The process is very unclear. It is not spelled out at all in these letters to the committee. So the committee does not know what to expect. It seems to him get rid of that mandatory indemnification and the Town gets its money back. They do not want double jeopardy here.

Chair Andrews said there is no conclusion on this issue. This is pending additional review by other parties. That information will be brought back to the board for some type of decision or vote. Is there any other discussion needed on this issue with the benefit of having Mr. Randolph in attendance?

Mr. Brown said the only thing is that the committee should be sure that they are going to have another meeting where there is a discussion on this and not just let it go.

Chair Andrews said that will be taken into consideration when they discuss the next meeting date.

VII. FIDUCIARY LIABILITY INSURANCE UPDATE

Ms. Struder said she thinks Mr. Brown covered that in his comments in the last item.

Chair Andrews said he would like to bring up an issue for comment. As far as he knows from other boards, this is the only board that does not have its own legal representation.

Ms. Struder asked Mr. Randolph if he sits on all the boards?

Mr. Randolph said he does not attend the medical advisory commission meetings. He attends all the permanent boards that are designated by ordinance but not the ad hoc advisory boards.

Chair Andrews asked if this committee is considered a pension board?

Mr. Struder said it is a trust.

Chair Andrews asked for comments from the committee on whether they believe it is advisable that this board have counsel.

Mr. Brown said he has not seen a reason for it yet but on this whole issue that was previously discussed, they have had some interesting discussion.

Vice Chair Hennessy suggested wait until the committee decides what they are going to do at the next meeting, what the Civic Organization proposes, and then see how the committee feels about it afterwards. If the Town Council turns it down, then they will have legal representation.

VIII. UPDATE ON CUSTODIAL SERVICES

Sean Higman said there is a summary of proposals in the handout that they endorsed from State Street Bank & Trust as custodian for the Health Insurance Trust Fund. State Street is the largest of the custodial trustees. They will charge an asset based fee which is minus 4.5 basis points and then the balance of the costs of the structure from a custodial standpoint depends entirely upon how the asset management side is structured. These are very reasonable fees. They looked at the number and the type of funds that they would be recommending. That gets to somewhere around the $9,900 based on $16,000,000 in assets in a convertible bond portfolio, a multi-line item portfolio, which is a separate account meaning that it is traded in either a stock or bond fund, and seven commingled products. Literally that is that each one of those is where they have institutional mutual funds. They think that this is a reasonable proposal.

Chair Andrews asked if there are any comments from the committee?

Chair Andrews asked if a motion is needed on the custodial services?

Ms. Struder said yes, to determine if that is the route the committee would like to take.

Vice Chair Hennessy made a motion to accept the custodial services recommended. Mr. Brown seconded. Motion passed unanimously.

IX. INVESTMENT POLICY REVIEW

Mr. Higman referred to the draft policy of the Statement of Investment Policy in the handout. One of the things that they endeavor to do since they are involved with the Fire and Police pension boards, is to leverage as much of their relationship with the investment managers as possible. Also, many of the managers in documents such as these have already been read by their outside counsel.

This draft policy is modeled after the Fire Pension Board investment policy. They only vary slightly between the Fire and Police and that has to do with manager structure and a couple of technical issues involving their coverage. There are some declarations that are sometimes put into the document. He literally used the language of the Fire removing those items that were particular to the Fire Department or those that had those personality issues in them where there were declarations that would have been unique to their process and their committee. The biggest issues are the general objectives on page 1. They talk about the citings of the Florida law and the ERISA law. It suffices to say that this committee will use the prudent man to manage and they will not self deal and will act in a manner that is to the sole benefit of the beneficiaries.

Page 2 simply lays out the asset allocation. Generally speaking they put a 5% range on either side. They use that for their rebalancing discipline meaning that when they look at the portfolio, they will measure it against the range and, absent any new cash flows in or out of the plan, if it is within the range, they let it run. If it falls outside the range, that requires action. When they get up and running and have regular cash flows, that is also an opportunity to rebalance and they take advantage of that. Their intention is to rebalance to target. The balance of the document relates to very specific restrictions some of which are dictated by 215.47. Others are just standard. They can go page by page and discuss those.

Chair Andrews asked for comments.

Mr. Brown said he is not sure that he agrees with the first statement of the general objectives that says "The long-term objectives shall be to invest Trust contributions and assets …to ensure that there will be no principal erosion of funds or the purchasing power thereof". He thinks the committee is setting themselves up for criticism because there is bound to be principal erosion if they happen to confront a bear market. Secondly, he thought the main idea was to try to achieve the actuarial assumption not just to maintain purchasing power. This implies that the committee is just trying to keep up with inflation.

Mr. Higman said the first statement is relative to maintaining the principle and it is meant to be a long term view so there is no view that they are going to, over any short term or intermediate term, guarantee that. The primary goal would be related to the actuarial rate of return. That actuarial rate of return, at least in some sense, will have to be in relationship to benefit payments plus inflation. They are not adverse to changing something that is specifically said. Later in the document, they talk about the specific investment objectives being linked to the actuarials.

Chair Andrews said he thinks the Town Charter says they are to protect the principal. That is a little different than there will be no principal erosion. He thinks that would be a better alternative. He asked Mr. Brown if he thought that would be a better statement.

Mr. Brown said if they are going to stick with this kind of statement as the main objective, he would say that the principal erosion phrase should be eliminated and say, "The long-term objectives shall be to invest Trust contributions and assets controlled by the Trustees to maintain the purchasing power of the principal". After the last discussion about lawsuits, he would not agree to ensuring there would be no principal erosion.

Mr. Mikus said that is a very valid point because they could go into a deflationary cycle, have principal erosion, and increase purchasing power of the fund.

Mr. Higman said he will restate that section.

Mr. Brown said the second part of his objection was that he did not think this was the main event for their objectives. He thought the main event was to achieve within the parameters of diversification. The actuarial assumption was to back up the liabilities. He asked if Prime asked the committee for advice when they set the 8%?

Mr. Higman said they did not in this one but the committee would endorse the actuarial rate of return going forward.

Mr. Brown said that is helpful.

Mr. Higman said otherwise the committee cannot function.

Mr. Brown stated they talk about the fiduciary standards being set forth in ERISA and then he says that the Town is not subject to ERISA.

Mr. Higman said as an entity, the Town is not governed by ERISA.

Mr. Brown said if they are not governed by something, why should they adopt it? What is the benefit? They already have the Prudent Investment Rule that the Florida Statutes require them to do.

Mr. Higman said it is in the spirit that other boards have. Many of the public plans make this declaration in the spirit of ERISA as it relates to not engaging in any kind of self dealing activity and using the Prudent Investor Rule.

Mr. Brown asked if the Prudent Investor Rule does not cover those things?

Mr. Higman said no. He does not think there should be any reason to be worried about taking reference to that at all particularly when they say a government entity is not governed by it.

Mr. Brown suggested taking out the two sentences, "Although not governed by ERISA, the Trustees have adopted the prudent man standard of care as the standard to be applied in the management of the Fund's investment portfolio. The Trustees and all of its agents shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. paragraph 1104(a)(1)(A)-(C)." Those two sentences should be taken out, or if the committee wishes to adopt them, they ought to look at what those fiduciary standards are.

Mr. Higman said although the language sounds onerous, there has been almost no fiduciary suit except for the case of self dealing. They talk about how rigorous and how scary they are to people, there is little litigation and almost none had anything to do with anything other than self dealing but he will be glad to take it out.

Vice Chair Hennessy said take it out.

Mr. Brown said in the first paragraph, where it says "Trustees are aware that the markets will vary dramatically in the short term, but that the actuary has taken all market scenarios into consideration". He asked what that means?

Mr. Higman said the history is that they focus on year in year out achieving the 8% actuarial rate of return and the 8% is intended to be a long term number. Both public and sometimes committee members measure failure or success by whether that annual 8% is met. Remember the 8% could be plus or minus 10 or 11%. It is an acknowledgment here that everybody understands that on a year to year basis there will be shortfall.

Mr. Brown said this kind of gets back to what Mr. Higman said earlier that "we are us and liability people are liability people". Maybe there should just be a period after the word term. "The trustees are aware that the markets will vary dramatically in the short term." He does not know what the actuary has done.

Mr. Higman suggested he change it to something similar to "an actuary rate of return based on a long term".

Mr. Brown agreed. He said the second comment he had was under the tables on page 2. "Absolute return investments include various arbitrage strategies designed to benefit from security mispricings." He assumed distressed securities, etc., was included in there. He asked if something like "and other strategies" could be put in there? Because distressed securities and some others he can think of are not arbitrage strategies but they nevertheless benefit from securities mispricings of absolute return strategies.

On page 3, Vice Chair Hennessy had a concern with number 5. A number of the committee members would include this in the 80's and 90's about having managers voting proxies where they were not voting the proxies themselves.

Chair Andrews said he does not have a problem with the proxies being voted by the managers.

Vice Chair Hennessy said he cannot imagine an issue coming up right now but there could very well be. He does not want someone out there voting the proxies that thinks the opposite of what he thinks.

Mr. Higman said the state of the art is that they monitor the proxy voting of the investment managers. The voting of proxies is interval to their investment decision. So if there are management issues put on the proxies that they have in fact disagreed with, they always have the ability to sell the stock. Prime takes the position from the committees' standpoint, it is unruly and almost impossible for the committee to vote the proxy. Prime has told them that they intend for them to vote them consistent with their investment criteria and that Prime will ask for a report on what they have done. If a particular issue were to come up, the popular one today is the Sudan, it is catching fire the same as South Africa did, the new statement of corporate activism among pensions is to not focus on necessarily just the proxy. It is a combination of do no harm. For example, in the Sudan issue, there is an organization that's being careful not to invest in anything Sudan because this could hurt the Sudanese people while trying to hurt the government. It becomes a quagmire if the Trustees try to get involved in the proxy. Ultimately, if the Trustees disagree with what the manager is doing, fire the manager. If he disagrees with what is going on in the company, he sells the stock.

Mr. Brown asked if Prime will review the reports that they will be getting as Trustees?

Mr. Higman said they do not spend any agenda time on it. The managers are required to provide them.

Mr. Brown said he is a little uncomfortable with the second sentence in number 5 that states, "When a manager chooses to vote against management, the rationale for the vote shall be communicated to the Trustees in writing after the fact". If there are critical areas that they are concerned about, it may well be the other way around.

Mr. Higman said he would caution the committee that they do not want to get into second guessing. They can always review these as investment decisions. The only reason that the investment managers should vote for or against a provision in a proxy is that he believes that it damages his investment. If it does in fact do that then he always has the option of selling and Prime does not prevent that.

Mr. Brown said follow that logic to take out the second sentence.

Mr. Higman said they can certainly do that because later they do require the managers to file with them.

Mr. Mikus said he would want it stated that they do not take as a committee any responsibility for voting proxies and that would limit it entirely. What if somebody is out of town? It is just another lever to give the committee responsibility when they have very limited operational authority. Let the performance speak for itself. They are an investment committee and that's just another leverage that somebody may want to use to sue. It may be good to state that the committee does not vote proxies.

Chair Andrews said they are also assuming that someone is voting proxies.

Mr. Higman said that is why they monitor their report.

Mr. Mikus said someone has to vote the proxies. The committee just wants to make sure that they don't.

Mr. Higman said remember most of these are going to be commingled funds and the commingled funds have all kinds of mechanisms for voting in their prospectuses.

Mr. Brown said this is a case in which the Chairman asked earlier of whether the committee needs their own lawyer. If a lawyer was sitting there, he would ask him if the committee can escape that.

Mr. Higman said in an ERISA plan, no. The committee can delegate it and give it to a co-fiduciary but in an ERISA world, they can never delegate. He will add a sentence that says the Trustees do not express opinions on individual proxies.

The committee agreed that seems fair.

Chair Andrews said he has questions on number 6.

Mr. Higman said just so you know the limits of editing this. This is the explicit language used in 215.47 to limit the investment within the fund.

Chair Andrews asked Mr. Higman to tell him the difference between the 10% and the 3%?

Mr. Higman said the 10% is the combination of all securities that could ultimately become a common stock ownership in that. So in the aggregate, you can't own what would be 10% of their capitalization of preferred stock and anything else, convertible bonds that might turn into 10%. The 3% relates to their common stock, the equity assets of a firm unless it is more than 3% weighting in the index, in which case, the index weight could be added or by statute it has an escape clause. In the statute, it says if by specific finding of the committee, it is in the best interest of the committee to allow them to have more in than 3% or more than the index weight. So that is why they add that without prior approval of the Trustees.

Mr. Mikus asked if Prime is going to be monitoring that?

Mr. Higman said what happens because they use commingled funds when they go into the fund, is they will stay as part of the investment process. This fund is allowed to and will on occasion invest more than the 3% or equal to the weight and by selecting that fund, they have approval.

Mr. Mikus said but in the portfolio's totality, it could be more. There could be a long/short fund, a value fund, a bond fund that has convertibles.

Mr. Higman said there could be occasion. The place where it is most likely to occur would be when the hedge funds do that. The issue there would be transparencies and it is difficult to say that in the aggregate, it won't violate that. Remember they always have this unless the committee says as an express finding that it is in the best interests of the client. There is an escape clause in this.

Mr. Mikus asked where would that be stated?

Mr. Higman said they will say it in the course of hiring the managers.

Mr. Mikus said but it won't be on the Investment Policy Statement.

Mr. Higman said this is just an expression of 215.47.

Mr. Brown asked if paragraph 8 should be eliminated?

Mr. Higman said the counsel for Fire uses this as her standard for hiring investment managers although she has relaxed that. It has become a standard to act more like the rest of the fiduciaries because they do not require it anymore.

Mr. Brown said so even the ones that have it in their policy do not use it?

Mr. Higman said what is happening is that many managers, if it is a commingled fund and has non ERISA assets in it, would not certify it. This falls in that lawyer category and is probably overkill from their standpoint. Because they are going to do this, the question is does the committee want to have it here in writing and then have somebody later hold them to a standard that they do not need?

Mr. Brown said he did not want it in there.

Mr. Panfel said he thinks it should be in there. He does not see that the committee is getting damaged by putting the burden on someone else.

Chair Andrews said he does not have a problem with it. Some of this has to be said in a legal document. Does anybody want to have this removed?

Mr. Brown said under restrictions on page 4, paragraph 1, there are a lot of statements that the managers are going to do.

Mr. Higman said they are all prior approval by the Trustees. Remember they are going to give these to the investment managers. These are "thou shalt nots" unless Prime tells them they can. This goes to the investment managers and prior to the process, Prime says, "can you live with this"?

Mr. Mikus asked whose signature is going to go on this investment policy? Who is ultimately responsible?

Mr. Higman said the committee signs it.

Mr. Panfel said in the last sentence under Internal Controls which says, "Such system of internal controls shall be reviewed by independent certified public accountants as part of any financial audit required by the Trustees", is this required?

Ms. Struder said there is an annual audit of all the internal controls.

Mr. Panfel asked if it is done on all the committees?

Ms. Struder said not necessarily on the committees but on the trust funds.

Mr. Higman said on the trust funds, an annual audit will begin on this pool of assets that will have to be certified.

Ms. Struder said if this was pulled from Fire and Police, it should be changed because the Town does not administer those assets. It is Pension Benefit Resources.

On page 5, Mr. Brown asked if paragraph 5 is required by the Florida law that they can't invest in bonds or preferred stocks rated below investment grade?

Mr. Higman said that is a desire of the other two plans.

Mr. Brown said it does say without prior approval by the Trustees but this trust is going to have a couple of bond funds.

Mr. Higman said and they most certainly could own securities. Again, part of that process is when the managers are hired, the facts will be discussed of where they may violate these principles and that the committee will approve ….

Mr. Brown asked, so all this business of prior approval has come up on several occasions and now means that as the committee goes into each of the managers, they somehow have to get approval for any of the exclusions?

Mr. Higman said they will talk about the managers in context of these funds. If they get to a size where they might have separate accounts, as in a variables manager, he would be most interested in every one of these items. When using a commingled manager, they want to acknowledge but these items will not apply to them. It basically says, "I'm a commingled manager, this is what I do by buying, you accept my prospectus versus yours."

Mr. Mikus said he thinks it might be more appropriate to put a maximum percentage in, 5% or something. For example, let's just say the committee wanted to hire Pimco, and then put 5% of this bond in high yield securities. This is really a discussion over performance.

Mr. Higman said a threshold could be put on this. The threshold is just a mechanical thing because you still have the funds that say unless approved by….

Mr. Mikus said he just does not want to open up any potential for anybody to come after the committee members and say, "look, you didn't discuss it, it was there and you had the investment conversation". Asset allocation specifies that managers have a threshold of 5% or 10% just to save the committee a lot of time in the discussions.

Mr. Higman said they just want to say they are not going to do it unless permission is consciously given. It is really a practical matter.

Mr. Brown said if the committee is not going to do that, he still feels uncomfortable about the process of the Trustees prior approval. He is just not sure how they will do that. Let's use Mr. Mikus' example that the committee is going to go into some commingled bond fund of Pimco's and let's suppose that they have 12% in below investment grade, when and how are the Trustees going to approve going into that?

Mr. Higman said at the next meeting, they are going to bring to the committee their proposed investment lineup including funds, Pimco, Western Asset Management, core bonds, or whatever. Then in the description in recommendation of Pimco or Western Asset Management, they will advise that Western Asset Management will invest as such and have the following restrictions. They will note that restriction. They may have high yield up to 10% that will be part of the record and that has to be acknowledged. He said with each manager they have a single profile that profiles all of the process, their sector weights, etc. In that discussion, they will introduce those.

Chair Andrews said he has a comment on number 8 where it says, "Not more than 10% of each Investment Manager's portfolio, valued at market, shall be invested in short term instruments less than one year of maturity or cash equivalents". Does that basically say the funds have to be only invested?

Mr. Higman said yes, no sitting on cash.

Chair Andrews said another thing he did not see was questions of conflict of interest. As an employee of Nuveen, it is required that you cannot have any investments of Nuveen. That has to filter down somehow to investment managers.

Mr. Mikus asked if the committee members have to sign something just to be a member of this committee?

Mr. Higman said yes, they have to sign the Florida conflict of interest.

Ms. Struder said the ordinance that establishes the board sets up the criteria to be a board member and requires that there is not conflict of interest. A committee member can't deal with that company for a couple of years after leaving the board.

Chair Andrews said he understands that but how does that filter down to the investment managers?

Mr. Higman said in the sense of the committee not going to have any direct responsibility of the investment decision of the investment managers.

Chair Andrews asked in other words, there is no link?

Mr. Higman said that goes back to the prudent man and self dealings, etc. The committee is never going to have direct responsibility for directing the buying and selling of individual securities in this portfolio.

Mr. Panfel said that statement strikes terror because he had an experience some years ago where that statement was relied upon and they lost. There is a link that cannot be escaped. How do the committee members know that Prime never spoke to that matter? He would be troubled if he left this with that ending. He thinks the manager has to be told that they cannot do business with Nuveen.

Chair Andrews said or ask if there is a conflict. His company has said he can't do it. He would like that to be addressed and there may be some other issues on that from other committee members.

Mr. Higman said he has not encountered language on whether or not it is directly linking back to the employer. Most of the conflict of interest language that they put in Investment Policy Statements relates to, "you will not direct business, you will not in any other way cause us to do something that profits you directly".

Ms. Struder said that is in the Town's ordinance that established the committee.

Mr. Higman said that he is reasonably sure that the Florida Statute and ERISA also deal with the self dealing.

Mr. Panfel said he would like to get a letter from Mr. Randolph advising us of the situation and waiving it.

Chair Andrews said he is concerned about the link. Is there something that can be put in the restrictions that would address that?

Mr. Higman said how would he address it? It is unnecessary for the committee to prevent an investment manager from making independent investments. It is unnecessary because individually, the committee cannot hire or fire any of the managers. The committee is only one vote and could not influence this.

Mr. Mikus said a committee member could recluse himself from that vote.

Chair Andrews asked Mr. Mikus, as an active investment manager, how he would handle it if he had a lot of clients in Pimco and all of a sudden Pimco showed up, what would he do?

Mr. Mikus said he would divulge it because he already made that decision independently.

Mr. Higman said the only way it matters is if somehow it benefits a committee member personally.

Chair Andrews said at some point in time he is going to have to take all the documents and read them. He is looking in advance at the linkage, hopefully nothing will ever happen.

Mr. Higman said he has not encountered this at all.

Chair Andrews asked for comments on page 6 on the Review of Policy.

Mr. Higman said he will make the edits according to the committee's desires today. He will recirculate it and the committee will have to adopt it probably at the next meeting.

Ms. Struder said then it cannot go to the March Council meeting.

Mr. Higman said because of the Sunshine Law, the committee cannot do it themselves.

Ms. Struder said unless they vote for it today with the changes and trust that the changes are made.

Mr. Higman asked how the committee feels about that?

Chair Andrews said if it comes back and there are some issues that need to be addressed, they could not address them after it is approved by the Town Council.

Ms. Struder said it can be revised anytime but it would have to go back to the Town Council.

Chair Andrews said he does not have a problem with that. He asked for suggestions from the committee.

Mr. Higman said if the committee approves with edits as described, then make the edits and schedule to take it to the Town Council.

Ms. Struder said the next Town Council meeting will be Tuesday, March 13th.

Mr. Higman said he will plan on attending.

Ms. Struder asked if any board members will be there?

Chair Andrews said he will try to be there.

Mr. Higman said hopefully they can get this on the Consent Agenda.

Chair Andrews asked how does it get on the Consent Agenda?

Ms. Struder said that is a decision the Town Manager and the President of the Town Council make. The Town Manager can recommend that it get on the Consent Agenda and even if it gets on the Consent Agenda, any council member can vote to take it off and hear it.

X. UPDATE ON INVESTMENT MANAGERS

Mr. Higman reported they are on their way with the searches. He has asked the Research Team to complete them by the end of next week, and he is trying to get a meeting date quickly thereafter.

Chair Andrews asked if they have a pretty good idea of where they want to put the monies?

Mr. Higman said yes. To that extent, they have already contacted the convertible bond manager to assure he will take the account. Relative to the hedge fund managers that they are contemplating recommending, one is currently being used in the Fire and Police and the other is being contemplated to replace one of their other ones. Fire or Police have not approved that manager but it is anticipated that they will.

Mr. Brown said going to the issue of conflict of interests that the Chairman brought up, is there any problem if there are commingled funds that are popular, if the committee members invest personally in the same funds that the trust invests in?

Mr. Higman said he does not believe there is a problem. Prime's recommendation insulates the committee.

Mr. Brown asked where they are on negotiations on the State Street real asset pool?

Mr. Higman said they did look at that. If they replace the index in large cap with State Street, how much revenue would that generate and the answer is not a lot, because at 5 basis points it is about 13%.

Mr. Brown asked if that particular fund is public or private?

Mr. Higman said most if not all of State Street's funds are trust funds.

XI. PRESENTATION BY INVESTMENT ADVISORY COMMITTEE AT THE APRIL TOWN COUNCIL MEETING

Ms. Struder said she put this on the agenda because she was notified by the Town Manager's office that each month the Council likes to hear from various commissions and boards of the Town to update them on what they have been doing for the last year. They designated that the April Town Council meeting, Tuesday, April 10th, will be the meeting where they would like the Investment Advisory Committee to present their update. She would like to know if the Chairman is available for that meeting to do the update.

Chair Andrews said he would be glad to do that. He asked how long the presentation will be?

Ms. Struder said she thinks it is 5 or 10 minutes and then there will possibly be some Q&A.

Mr. Higman said Prime will commit to have one or both of them there.

Ms. Struder asked if Mr. Higman will at least have an update on where they stand with the Health Insurance Trust assets at that point?

He replied yes.

XII. NEXT MEETING DATE

Ms. Struder asked since Mr. Higman is going to be in Town for the March 13th Town Council meeting, if it is possible that he could stay through the 15th and meet again with the committee on the 14th or 15th?

Mr. Higman said he is open either day, preferably the 14th.

Ms. Struder said on the agenda for that meeting, the committee has already said they would like for Mr. Randolph to come. She asked Mr. Higman if he will be presenting the money managers at that meeting?

Mr. Higman said he will present the money managers and he thinks they concluded that they are going to have the alternative managers or at least interview their selection for the two alternative managers. They will have a book that is going to essentially describe and give performance data on maybe a couple of managers just to show the committee who else they considered with their very specific recommendation as to how to carve out the assets. The one place that is probably still in the air is whether they execute with SSgA or some combination.

Chair Andrews asked if they will get the books in advance?

Mr. Higman said absolutely.

Ms. Struder said in the minutes there was a discussion about possibly reviewing the investment policy of the surplus funds at the next meeting.

Mr. Brown said it might be a good idea, that has not been done for a while and the committee does not want to forget about the fact that they are managing $100,000,000.

Chair Andrews said it probably makes sense to have an annual review of that. He asked Ms. Struder if she will do that for the committee.

Ms. Struder said it can be done the same way this policy was reviewed, section by section and see if anyone has any new comments. She asked if they had any interest in having the Florida League here with a presentation?

Chair Andrews said they had a presentation last time. It was not in depth and Atlanta Capital did not attend but he would like to hold off on having the League here until the next meeting.

Mr. Mikus said on the Health Insurance Trust Fund, it states that the investment policy must be reviewed at least annually by the Trustees.

XIII. ANY OTHER MATTERS

There were no other matters for discussion.

XIV. ADJOURNMENT

Vice Chair Hennessy moved for adjournment. Mr. Brown seconded. Motion passed unanimously.