

**PALM BAY POLICE AND FIREFIGHTERS' PENSION PLAN  
BOARD OF TRUSTEES  
Regular Meeting 10-13**

Held on the 6<sup>th</sup> day of October 2010 at Robert J. Conlan Professional Center, 1501 R. J. Conlan Blvd., NE, Suite 260, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, Palm Bay, Florida.

Richard B. Adams, Chairperson, called the meeting to order at the hour of 9:02 a.m.

**ROLL CALL:**

**PRESENT**

Richard B. Adams, Chairperson, Board Appointee  
Timothy W. Lancaster, Vice Chairman, Police Elected  
Douglas R. Smith, Secretary, Fire Elected  
John J. Mazziotti, Trustee, City Councilmember  
Milo Zonka, Trustee, City Councilmember

**EXCUSED**

Also in attendance was Ms. Kathy Adams, Board Administrator. Ms. Joyce Dias, Human Resource Officer, City of Palm Bay was in attendance. Firefighter Benjamin J. Kiszkiel arrived at 9:06 a.m. Ms. Kristin Courcier and Deanna Robertson, Pension Assistants, arrived at 9:29 a.m. Mr. Cypen was telephoned at 10:03 a.m.

**AGENDA REVISIONS:**

Motion by Mr. Zonka, seconded by Mr. Lancaster to add under Old Business, 1. Actuarial Services & Projects: Foster & Foster, Inc., Item g. Impact Statement-Ordinance 2010-07. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea.

**CONSENT AGENDA:**

Motion by Mr. Zonka, seconded by Mr. Lancaster to approve the Consent Agenda. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea.

**ADOPTION OF MINUTES:**

**\*Regular Minutes 10-12**

The regular minutes 10-12 were considered under Consent Agenda and approved as presented. Mr. Adams read Form 8B Conflict of Interest Form filed in the Regular Minutes of September 1, 2010, 10-12.

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**NOMINATION AND APPOINTMENT OF BOARD CHAIRMAN, VICE CHAIRMAN, AND SECRETARY:  
By the Board of Trustees**

Motion by Mr. Lancaster, seconded by Mr. Smith to retain Mr. Adams as Chairman. Motion carried with members voting as follows:

Mr. Lancaster, Yea  
Mr. Smith, Yea  
Mr. Mazziotti, Nay  
Mr. Zonka, Nay  
Mr. Adams, Yea

Motion by Mr. Smith, seconded by Mr. Mazziotti to nominate and appoint Mr. Lancaster as Vice Chairman. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea.

Motion by Mr. Lancaster, seconded by Mr. Zonka to nominate and appoint Mr. Smith as Secretary. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea. The discussion continued with Old Business, Item 1., b. as the board wanted item a. discussed with Mr. Cypen.

**INFORMAL DISABILITY HEARING AT 10:00 A.M.:**

1. **Firefighter Benjamin J. Kiszkiel**-Mr. Cypen was telephoned at 10:03 a.m. Mr. Cypen said these cases are reserved for situations that fall under the Disability Guidelines, page 3 of the disability binder on Mr. Kiszkiel. He reviewed the criteria regarding total; permanent and line of duty. He said to look at the doctor's report and page 12 regarding the heart & lung. Mr. Cypen said he felt all the criteria had been addressed. He went through the process regarding swearing in Mr. Kiszkiel; the granting on all three criteria; motion to defer and to table if the material was incomplete; motion to deny and that a motion to deny must include all three grounds. The board had no questions at this time as to the process. Mr. Cypen said Mr. Kiszkiel was terminated, so the burden to determine "total" is made. Mr. Kiszkiel said he had no statement as the City made it for him. Mr. Cypen swore in Mr. Kiszkiel. Mr. Zonka asked Mr. Kiszkiel in going back to 1999 lab reports that he had health issues. Mr. Kiszkiel said he went on medications prescribed by his doctors. Mr. Zonka commented on Mr. Kiszkiel's weight and recommendations to exercise. Mr. Kiszkiel said he passed the fire department's physicals each year and the weight gain was due to his heart issues. Mr. Zonka asked him about his history with the City, the key date being 1999. Mr. Cypen said it may be interesting but in no way dealt with the core issue of presumption, where an employee is hired and shows no evidence of heart disease or hypertension. Mr. Cypen said the presumption is strong and has been upheld in court. In his forty-years' of experience, it has not been upheld in only two instances. He said it is not presumed to be total and permanent, only service-incurred. He said the City said you're out of here and it takes away that determination for the board. There was discussion by Mr. Zonka about Mr. Kiszkiel's blood work at the time of hire and it not being within the file. Ms. Dias said it should have been done. Ms. Adams said the board does not receive that information from

the City as part of their records request. Mr. Cypen said he can't imagine any physical without a blood test. Mr. Smith read Tab 10, page 16 of Dr. Nocero's independent medical examination (IME) report. Mr. Mazziotti asked what angina is where you must stop exercising. Mr. Cypen said it's a specific type of condition. Mr. Cypen said the City should take heed to accommodate employees as it is a much bigger savings, but the City doesn't see it that way. Mr. Mazziotti asked Mr. Cypen what his read on the disability was. Mr. Cypen said if he was asking his opinion on it, he can't give it; that is up to him as a trustee. If the member meets total, permanent and line of duty, the only question is permanent and the City determined that. Mr. Mazziotti asked if a member can lose a disability, through fraud or recovery. Mr. Cypen said that process is so fraught with problems. He said you might have a Plan that gives service credit while in disability that could result in a higher disability payout. Mr. Cypen said you never put someone out for disability with the intention of bringing them back. Mr. Smith discussed the risk factor for hypertension, as part of the presumption. Mr. Smith said the IME meets that issue. Motion by Mr. Lancaster, (at this time Mr. Mazziotti left the meeting and was not available during the vote), seconded by Mr. Smith to grant Mr. Kiszkiel's disability application meeting the criteria of Total; Permanent and Line of Duty. Mr. Zonka said he felt the application was incomplete. Motion carried with members voting as follows:

Mr. Lancaster, Yea  
Mr. Smith, Yea  
Mr. Zonka, Nay  
Mr. Adams, Yea

#### **OLD BUSINESS:**

1. **Actuarial Services & Projects: Foster & Foster, Inc.**
  - a. **Request by the City of Palm Bay and the Palm Bay Professional Firefighters, Local 2446, for an Impact Studies as Part of the Current Negotiations**-The board reviewed a memo from Mr. Ginsburg, President, IAFF, Local 2446, regarding pension language and resolve from the City of Palm Bay, where asked the board of trustees to attest to the legality of such changes, language, and resolve. Mr. Mazziotti returned to the meeting at this time. Mr. Cypen said it was not appropriate for him to opinion on this. He said the courts have held if anyone is eligible for retirement on the day it is implemented, it does not impact them. Also Florida State Statutes (F.S.S.) 175 & 185 minimum benefits, and improved March 1999, state that it is not illegal but the City may have to give up the Chapter money. Mr. Adams asked if the firefighters negotiated prior to March 12, 1999 changing the minimum then that is the new minimum. Mr. Mazziotti commented that if F.S.S. 175 is not there; Mr. Cypen said if they do not want F.S.S. 175, then the City doesn't want the 175 money. The City then makes up those dollars and they do not receive the base. Mr. Zonka stated that if the City and the Union have attorneys to determine the legality, then the ordinance would be presented to the board for review. Mr. Zonka asked Mr. Cypen about Ms. Adams' job status and wanted a copy of Mr. Cypen's and Ms. Adams' contracts. The telephone call with Mr. Cypen ended at 10:37 a.m. Discussion continued with New Business, Item No. 5.

- b. **General Employee Transfers to Police Officer Status Prior to 1991**-This item is pending.
  - c. **Florida Premium Tax Distribution-Police Overtime Benefit Draft Ordinance**-This item is pending.
  - d. **Florida Premium Tax Distribution for Police Officers**-This item is pending.
  - e. **Florida Premium Tax Distribution for Firefighters & Pending Supplement**-Motion by Mr. Zonka, seconded by Mr. Smith to credit the firefighters' Premium Tax Distribution of \$50,215.73 and the pending Supplement for the 2010 fiscal year. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea.
  - f. **Transmittal Letter for the City of Palm Bay-Annual Required Contribution**-There was discussion about the City's annual required contribution and the City overfunding on Fire and underfunding on Police. Ms. Adams said she received correspondence from the actuary saying the City must pay the underfunding on Police. The actuary suggested getting an opinion from the State and auditors as to what action to take. Motion by Mr. Smith, seconded by Mr. Zonka to do whatever the State wants the City to do. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea. Mr. Zonka asked that the State be contacted to determine if the overage for Fire could be credited toward the regular contribution for 2011.
  - g. **Impact Statement-Ordinance 2010-07**-Motion by Mr. Lancaster, seconded by Mr. Zonka to accept the Impact Statement. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea.
2. **Pension Website**-Mr. Adams commented on recent updates.
  3. **Office and Laptop Computers**-Mr. Adams said he purchased Windows 7 and Office for installation into the office computers. He tried to install one and is still working on it.
  4. **Update on Ronald C. Giordano, Jr.-Disability Application**-Ms. Adams said a hearing is schedule for October 13<sup>th</sup>. Mr. Zonka said that City Attorney Stokes said no one should attend the hearing.
  5. **Firefighter Robbie R. Plante-Disability Application**-Firefighter Plante's IME is scheduled for November 19<sup>th</sup> and we anticipate his Informal Hearing to occur at the December meeting.
  6. **Annual Retiree Affidavits**-Ms. Courcier received responses from all retirees. Mr. Choma indicated he is healthy and Mr. Restrepo last saw his physician several years ago. The board asked Ms. Courcier to obtain a copy of Mr. Choma's most recent physician's examination.
  7. **Review of Florida Public Pension Trustees' Association School**-The board congratulated Ms. Courcier on achieving her Certified Public Pension Trustees' (CPPT) Certification. Mr. Smith said the classes and speakers were good. He spent time with Mr. Cole (Burgess Chambers & Associates) stating that Mr. Cole said the Fund had weathered the storm good as compared to other Plans. Mr. Cole told him he felt the Fund was going to meet its assumption rate. Ms. Robertson left the meeting and did not return.
  8. **Annual Review-Kristin Courcier, Pension Assistant**-The board conducted their review and looked at the CPI index. There were four excellent ratings and one above average. Mr. Smith said he had no discussion on salary at this time. Ms. Courcier left the meeting and did not return.
  9. **Notice of Unemployment Compensation Claim Filed-Prior Board Employee & Quarterly Unemployment Compensation Tax Payments**-Ms. Adams said the Department of Revenue had contacted her and Mr. Adams calculated the tax owed. All late fees were being waived and their

representative was very helpful. Motion by Mr. Lancaster, seconded by Mr. Zonka to approve the emergency warrant to make timely payment of the unemployment tax owed and to approve the reoccurring warrant for future quarterly payments as needed. Motion carried with members voting as follows: Mr. Lancaster, Yea; Mr. Smith, Yea; Mr. Mazziotti, Yea; Mr. Zonka, Yea; and Mr. Adams, Yea. Ms. Adams said there is no corporate tax requirement and that FICA and Federal Unemployment Taxes are being paid by SunTrust as required.

**10. Payout Expense Account-Transfer of Funds** -This account is being monitored but may need a transfer later. It really depends when the City deposits their required annual contributions.

**11. Fiscal Year-end Audit for 9/30/10**-Audit letters have been sent to clients.

**12. The Proposed Budget FY 2010-2011**-Ms. Adams reviewed the estimated expenses and said once the final audit was approved; it would be revised and posted to the website. The discussion continued with Item 3, Long Range Planning Session, below.

#### **NEW BUSINESS:**

**\*1. Consideration of Warrants for Payment**

**\*a) National Conference on Public Employee Retirement Systems**-\$150.00-Annual Membership Dues for 1/01/2011-12/31/2011, Invoice No. 27677-This item was considered under Consent Agenda and approved as presented.

**\*b) Foster & Foster, Inc.**-\$1,200.00-Professional Actuarial Services, Invoice No. 1540-This item was considered under Consent Agenda and approved as presented.

**\*2. New Plan Member Application, Member Beneficiary Changes, Pre-Retirement Death Benefit Option Selection and Retirement Beneficiary Forms**-A member beneficiary form was accepted and approved for Police Officer Sandra L. Birmer. A member pre-retirement death benefit option selection form was accepted and approved for Police Officer Sandra L. Birmer and Firefighter Rick Bradbury. This item was considered under Consent Agenda and approved as presented.

**3. Long Range Planning Items**-There was discussion about the lease agreement for the office and the City building a new City Hall Annex. Mr. Adams said he would talk to the City Manager and Mr. Warner (Conlan Profession Center). Mr. Smith said there were other locations too. Mr. Adams said he checked out the Florida Highway Patrol building on North US 1 because it was for sale and may be under the Bayfront Development area. He said it was two and one-half acres for \$200,000. The discussion then turned to the Informal Disability Hearing above.

**\*4. Review of Correspondence:**

**a) Monthly Bank Statement-STI, 08/31/2010**-The market value of the SunTrust Funds at 08/31/2010 was \$107,003,614.27. The market value of the International Funds, which are part of the SunTrust portfolio, is \$13,868,004.64. The Grand total of all the Funds at 08/31/2010 was \$114,578,335.11. This item was considered under Consent Agenda and approved as presented.

**b) Monthly Statement-JPMorgan Strategic Property Fund, 08/31/2010**-The market value for the JPMorgan Strategic Property Fund at 08/31/2010 was \$7,574,720.84. This item was considered under Consent Agenda and approved as presented.

**5. Administrative Proceeding Settlement from the U.S. Securities & Exchange Commission, Prudential Equity Group, LLC.-Putnam International Equity Fund for the Police Fund-\$741.30**-It was acknowledged that the funds were being sent to the bank for deposit and no further funds were expected.

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**6. Board Business-**Ms. Adams said there were problems with SunTrust's fax and emails as they did not receive invoices sent to them for payment the end of September. That impacted some checks that have since been issued. The check for the Police health insurance premiums had to be reissued because the City said they did not receive it. Ms. Adams would be looking into the possibility of wiring those funds after the first of the year. Ms. Adams said the board's trust representative at SunTrust was currently processing time cards for board employees' payroll. Ms. Adams said she received some information on the online payroll processing from SunTrust and was researching that. One question was whether or not it could be run off a trust account like the pension fund. Ms. Adams will follow-up later on this issue.

**7. Upcoming Events-Educational Opportunities-**There was no events to consider at this time.

**\*8. Termination Refund/Rollover/or Vested Termination, If Eligible-Police Officer Earl Yearicks-**  
This item was considered under Consent Agenda and approved as presented.

**INPUT FROM ACTIVE AND RETIRED PLAN MEMBERS:**


There was no input from any active or retired plan members at this time.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 10:39 a.m.

  
Richard B. Adams, Chairperson

ATTEST:

  
Douglas R. Smith, Secretary