

**JACKSONVILLE POLICE AND FIRE PENSION FUND
BOARD OF TRUSTEES
SPECIAL WORKSHOP SUMMARY
SEPTEMBER 12, 2016**

MISSION STATEMENT

To provide long term benefits to participants and their beneficiaries

PRESENT

Richard Tuten, Board Chairman
Richard Patsy, Board Secretary
Christopher Brown, Trustee
Willard Payne, Trustee
William Scheu, Trustee (via conference call) – *left meeting @ 10:20am*

STAFF

Timothy H. Johnson, Executive Director – Plan Administrator
Paul Daragjati, Fund Counsel – *left meeting @ 10:00am*
Beth McCague, Consultant
Debbie Manning, Executive Assistant

GUESTS

Jason Gabriel, Chief Legal Counsel, Office of General Counsel
Stephen Durden, Office of General Counsel
John Sawyer, Office of General Counsel

CALL TO ORDER

CHAIRMAN TUTEN CALLED THE MEETING TO ORDER AT 9:05AM

PUBLIC SPEAKING PERIOD

THERE WERE NO REQUESTS FOR PUBLIC SPEAKING. PUBLIC SPEAKING PERIOD WAS CLOSED.

MEETING OBJECTIVE – *Timothy H. Johnson*

TO DEVELOP A CLEAR UNDERSTANDING OF MATTERS ON WHICH THE OFFICE OF GENERAL COUNSEL WOULD EXPECT TO RENDER ADVICE AND COUNSEL TO THE FUND.

TIM JOHNSON STATED THAT WE ARE MOVING INTO A NEW FISCAL YEAR, WE HAVE A NEW EXECUTIVE DIRECTOR, NEW BOARD MEMBERS, AND PENSION REFORM IN PLACE. WE WANT A CANDID DIALOGUE WITH THE OFFICE OF GENERAL COUNSEL. WE ARE WORKING TOWARDS THE SAME PURPOSE.

UPDATE ON RFP FOR NEW PENSION LEGAL COUNSEL – *Beth McCague*

THE RFP FOR LEGAL COUNSEL HAS BEEN SENT TO FOUR FIRMS SPECIALIZING IN PENSION MATTERS WHICH ARE:

- **RON COHEN, FT. LAUDERDALE, FL**
- **SUGERMAN & SUSSKIND, CORAL GABLES, FL**
- **MIERZWA & FLOYD, LAKE WORTH, FL**
- **KLAUSNER & KAUFMAN, PLANTATION, FL**

THE DEADLINE TO RESPOND IS OCTOBER 4TH. BETH HAS SPOKEN WITH EACH FIRM AND THEY ARE ALL VERY INTERESTED IN RESPONDING TO THE RFP.

DISCUSSION POINTS - *Jason Gabriel and Steve Durden*

OFFICE OF GENERAL COUNSEL (OGC) IS ESSENTIALLY THE LAW FIRM FOR CITY OF JACKSONVILLE CONSOLIDATED GOVERNMENT. THE OGC SERVES FIVE CONSTITUTIONAL OFFICERS AND NUMEROUS INDEPENDENT AGENCIES INCLUDING THE POLICE AND FIRE PENSION FUND.

OGC HAS 36 ATTORNEYS AND APPROXIMATELY 22 STAFF MEMBERS. THE OGC IS THE CLEARING HOUSE FOR ALL LEGAL SERVICES. THERE ARE VARIOUS OGC DEPARTMENTS INCLUDING LIGATION, TRANSACTIONAL, AND LEGISLATIVE SPECIAIZATIONS. THE CHARTER IS ESSENTIALLY THE CONSTITUTION FOR THE CITY.

OGC RECOGNIZES THERE IS A NEED FOR OUTSIDE COUNSEL FOR THE POLICE AND FIRE PENSION FUND AS THE ADMINISTRATION OF THE FUND NEEDS SPECIALIZED PENSION EXPERTISE FROM TIME TO TIME.

JASON GABRIEL WAS ASKED TO DESCRIBE THE ROLE OF OGC AS CENTRAL LEGAL ADVISOR AND DESCRIBE THE DIFFERENCE BETWEEN LEGAL ADVICE AND POLICY DECISIONS:

PER JASON GABRIEL, THE DIFFERENCE BETWEEN LEGAL ADVICE AND POLICY DECISIONS. THE OGC DOES NOT WANT TO WORK ON POLICY DECISIONS. A POLICY MATTER TO BE MADE IS WELL WITHIN THE BOARD'S PARAMETERS. THE BOARD IS THE PROTECTOR OF THE FUND.

OGC WANTS TO HELP US NAVAGATE THRU DECISIONS – BLACK AND WHITE.

THERE WAS DISCUSSION REGARDING THE ROLE OF THE FIDUCIARY AS IT RELATES TO LEGAL ADVICE WHICH MAY CONFLICT WITH TRUSTEE VIEWS:

STEPHEN DURDEN CONFIRMED THAT THE RELATIONSHIP BETWEEN FIDUCIARY DUTIES AND LEGAL ADVICE IS SIMILAR TO THE RELATIONSHIP BETWEEN LEGAL ADVICE AND POLICY DECISION. LAWYERS ADVISE ON THE LAW AND CLIENTS MAKE THEIR DECISIONS.

DISCUSS THE CITY'S CHIEF LEGAL COUNSEL'S RESPONSIBILITY TO FUND MEMBERS:

THE BOARD HAS A DUTY TO PROTECT THE FUND AND CHAIRMAN TUTEN SAID THE STATE STATUES, CHAPTERS 175/185 DICTATE WHAT WE DO. IT SAYS WE CAN HIRE AN ATTORNEY OF OUR CHOICE. CHAIRMAN TUTEN REFERS TO JASON GABRIEL'S LETTER TO THE MAYOR REGARDING JOHN KEANE'S PENSION CITING CASE LAW HOWEVER, NO FLORIDA CASES WERE CITED, IS THERE ANY LAW THAT TRUMPS STATE STATUTE?

JASON GABRIEL STATED THE BOARD MIGHT HAVE PERSONAL LIABILITY IF A LEGAL OPINION WAS STATED AND THE BOARD CHOSE NOT TO TAKE COUNSEL'S ADVICE AND WAS LATER SUED OVER THAT DECISION. THE CITY CHARTER IS LEGISLATIVELY APPROVED STATE LAW. 175/185 GOVERNS HOWEVER, IN JACKSONVILLE WHERE THERE IS A CHARTER PROVISION, IT IS A SPECIAL LAW WHICH TRUMPS STATE LAW.

PAUL DARAGJATI SAID FOR KLAUSNER, KAUFMAN, THE 175/185 LAW PRE-EMPTS THE CHARTER ON ANY PROVISION WHICH CONFLICTS WITH 175/185.

JASON GABRIEL SAID THE ISSUE OF FIDUCIARY LIABILITY VS BINDING LEGAL OPINION, THE OFFICE OF GENERAL COUNSEL HAS NEVER ISSUED A BINDING LEGAL OPINION TO THE POLICE AND FIRE PENSION FUND. IF THE BOARD RELIES ON AN OCG OPINION, THEY ARE PROTECTED IF THERE ARE LATER CHALLENGES TO THE BOARD'S DECISION. IT IS EXTREMELY RARE FOR THE OGC TO ISSUE A BINDING OPINION.

BY THE CHARTER, A VARIETY OF PUBLIC OFFICIALS CAN ASK FOR A BINDING LEGAL OPINION. AT THE END OF THE DAY, IT IS VERY RARE TO HAVE A CONFLICT. THE SSVRP SITUATION AND LITIGATION WAS VERY UNUSUAL. THE OGC WOULD EXPECT TO WORK IN COLLABORATION WITH THE POLICE AND FIRE PENSION FUND AND ANY OUTSIDE COUNSEL TO PROVIDE A UNIFIED OPINION TO THE BOARD ON ANY FUTURE UNUSUAL SITUATION.

THE POLICE AND FIRE PENSION PLAN IS LARGE AND COMPLICATED. IT NEEDS OUTSIDE COUNSEL TO PROVIDE EXPERTISE ON PENSION AND BENEFIT MATTERS.

TRUSTEE BROWN STATED THE FUND IS CAUGHT IN THE MIDDLE.

JASON GABRIEL SAID AT THE END OF THE DAY, THE OFFICE OF GENERAL COUNSEL IS THE LEGAL BINDING AUTHORITY. IF THE BOARD CHOOSES TO RELY ON A CONFLICTING OPINION THERE IS A RISK TO THE BOARD.

IS IT APPROPRIATE TO ASK FOR ANOTHER LEGAL OPINION?

JASON GABRIEL SAID THAT WHATEVER THE QUESTIONS, THE BOARD OR EXECUTIVE DIRECTOR CAN REACH OUT TO EITHER. HOPEFULLY, THE LAWYERS WORK OUT DIFFERENCES OF OPINIONS THEMSELVES. MOST OF THE TIME, THE CLIENT WILL BE PROVIDED WITH A UNIFIED OPINION. THE CLIENT SHOULDN'T BE IN THE MIDDLE OF OUTSIDE COUNSEL AND THE OGC.

THE ATTORNEYS WILL WORK TOGETHER. THE CLIENT SHOULD BE GIVEN THE BEST AGREED UPON OPINION AND NOT HAVE TO CONSIDER TWO OPPOSING OPINIONS.

TRUSTEE PATSY SAID OUR GOAL IS TO DEVELOP A GOOD RELATIONSHIP WITH THE OFFICE OF GENERAL COUNSEL. CONFLICTS OF INTEREST – PUBLIC PENSION PLANS ALWAYS HAVE THAT. ARE WE GOING TO BE TREATED FAIRLY? AS THE OGC REPRESENTS BOTH THE FUND AND OUR SPONSOR CAN WE COUNT ON GETTING OBJECTIVE ADVICE?

JASON GABRIEL SAID THERE IS INHERENT TENSION WHEN THERE ARE QUESTIONS REGARDING TWO SEPARATE PARTS OF CITY GOVERNMENT. HIS OFFICE IS FREQUENTLY SCRUTINIZED BY BOTH SIDES WHEN THESE TYPES OF ISSUES OCCUR. MANY TIMES CLIENTS, WHETHER THEY ARE CITY COUNCIL OR INDEPENDENT AGENCIES, CONSIDER OPINIONS TO BE POLITICALLY MOTIVATED.

JASON SAID THE OFFICE OF GENERAL COUNSEL IS INSULATED FROM POLITICS. THE OFFICE OF GENERAL COUNSEL IS MADE UP OF PROFESSIONAL ATTORNEYS. THEY WOULD PAY FOR A THIRD ATTORNEY IF THEY BELIEVE ANOTHER OPINION WAS WARRANTED. OGC WILL OFFER AN OPINION AND THE BOARD WILL MAKE THE DECISION.

TRUSTEE PATSY SAID THE BOARD HAS DONE BUSINESS A CERTAIN WAY FOR A LONG TIME. THE LETTER DEMANDED WE CHANGE IMMEDIATELY. IN DEALING WITH OGC IN THE PAST, TRUSTEE PATSY HAS NOT EXPERIENCED THIS TYPE OF HARSH LANGUAGE. JASON INDICATED THIS MAY BE A STYLE ISSUE AND THE LETTER REFERENCED WAS MEANT TO OUTLINE THE RISKS TO THE FUND. HOWEVER, IF GENERAL COUNSEL STATES AN OPINION, THAT OPINION IS FINAL.

JASON GABRIEL REPEATED THAT THE CHARTER SAYS OGC IS THE LAST WORD. THE UNDERLYING GOAL IS TO PROTECT THE FUND AS A CLIENT.

CHAIRMAN TUTEN STATED THAT THE BOARD APPRECIATES JASON GABRIEL AND STEVE DURDEN ATTENDING THE WORKSHOP.

EXECUTIVE DIRECTOR TIM JOHNSON SAID THIS HAS BEEN A GREAT WORKSHOP. TIM ASKED WHEN WE HAVE A SITUATION REGARDING A MEMBER WHERE WE'VE DONE SOMETHING WRONG, WOULD WE SEEK EXTERNAL COUNSEL?

PER JASON, THAT DEPENDS ON THE CIRCUMSTANCES. EXTERNAL COUNSEL COULD SHARE CONCERNS AND VIEWS WITH THE OFFICE OF GENERAL COUNSEL. IT'S A TWO WAY STREET, AND DEPENDS ON THE ISSUE, HOW COMPLICATED, AND HOW BIG THE PROBLEM IS. IT'S NEVER TOO LATE TO REVIEW.

IF THE FUND HAS A RUN OF THE MILL QUESTION, IT CAN GO DIRECTLY TO OUTSIDE PENSION ATTORNEY. JASON REALIZES MEMBERS NEED TIMELY ANSWERS.

REVIEW OF TYPICAL FUND ACTIVITIES REQUIRING LEGAL ADVICE:

OFFICE OF GENERAL COUNSEL

HIRING OF SERVICE PROFESSIONALS (ACTUARIES, AUDITORS, OR MEDICAL DIRECTOR, INSURANCE)

CONTRACTS (EMPLOYMENT, LEASES)

FILING OR DEFENDING LAW SUITS

INTERPRETATION OF LAW AS IT RELATES TO PLAN ADMINISTRATION

QUESTIONS REGARDING SUNSHINE LAW OR PUBLIC RECORDS

EXTERNAL COUNSEL

DISABILITY APPLICATIONS, ADVISORY COMMITTEE REVIEW, HEARINGS SURVIVOR OR CHILDRENS BENEFITS

APPLICATIONS FOR OR SUSPENSION OF BENEFITS

OUT OF THE ORDINARY PENSION QUESTIONS/ SITUATIONS

CONTRACTS FOR MONEY MANAGERS/CUSTODIANS

SECURITIES LENDING

SECURITIES LITIGATION

SOMEONE FROM THE OFFICE OF GENERAL COUNSEL WILL ATTEND ALL OF OUR BOARD OF TRUSTEE MEETINGS. OGC WILL ALSO ATTEND THE ADVISORY COMMITTEE MEETINGS AS SCHEDULES PERMIT OR AS NEEDED.

CHAIRMAN TUTEN ADJOURNED THE MEETING AT 10:42AM

**TO BE APPROVED AT THE NEXT BOARD
OF TRUSTEE MEETING ON OCTOBER 21, 2016**

Richard Patsy, Board Secretary