

**BOARD OF PENSION TRUSTEES
FOR THE
CITY OF JACKSONVILLE RETIREMENT SYSTEM
December 20, 2018**

MINUTES

City Hall - St. James Building, Conference Room 3C: 2:00 P.M.

Members Present

Jeffrey Bernardo, Chair (arrived at 2:15)
Joey Greive
Kent Mathis
Bill Messick
Sam Mousa
Shari Shuman, Acting Chair until 2:15
Terry Wood

Staff Present

Randall Barnes, Treasurer
Paul Barrett, Senior Investment Officer
John Sawyer, OGC
Tom Stadelmaier, Pension Administrator

Others Present

Tad Delegal, attorney for Alan Mosley
Alan Mosley
Matt Powell, Segal via phone (until conclusion of Segal topic)

1. CALL TO ORDER

Acting Chair Shuman called the meeting to order at 2:01 PM

2. PUBLIC COMMENT

None

3. MINUTES

Mr. Mousa made a motion to approve the minutes. Mr. Wood seconded the motion. The Acting Chair opened discussion and Mr. Mathis pointed out a typo that Mr. Stadelmaier agreed to correct. The Acting Chair took a vote and the minutes passed unanimously.

4. NEW BUSINESS

Consent agendas

Mr. Mousa moved to approve the consent agendas. Mr. Greive seconded the motion. The Acting Chair opened for discussion. Mr. Mathis asked about the nature of COPP Drop Phase 2. Mr. Stadelmaier explained that was an option established in October 2017 to allow DROP participants to keep DROP funds in the Plan past 90 days after retirement allowing for payment over time with interest. There was no further discussion. The Acting Chair took a vote and the consent agendas passed unanimously.

5. INVESTMENT AND FINANCIAL MATTERS

Mr. Barrett updated the Board on the November 30 flash and allocation of investments. The overall fund was up slightly and overall outperformed the benchmarks. Fund still underperforming for the year but better than target long-term from 3 years out.

For US Equities, Intech remains the biggest red flag. It continues to underperform vs. the index by a considerable amount. Staff plans to ask RVK to focus on Intech and the other US equities once they are onboard in order to obtain their input on possibly making a change.

Fixed Income has done relatively well and there are no immediate concerns. MLPs have been down considerably. Mr. Wood asked about Hancock Timber. Mr. Barrett responded that the increases are based mainly on appraisals and demand for timber has increased. Chair Bernardo indicated increases may also be related to the ongoing tariff situation as well. Mr. Greive viewed the recent upswing as positive in light of past year's performance in this fund.

Mr. Mousa asked who would complete the December flash. Mr. Barrett indicated that BNY Mellon would likely still do December but the goal is to get RVK in place as soon as possible pending finalization of the contract.

Mr. Barrett provided an update on the Investment Consultant search. RVK was chosen as the preferred choice after the finalists meeting. He reported they were the lowest cost provider as well at \$180K. For comparison, previous provider Summit was about \$280K-\$300K annually. RVK did agree to reduce their fee for an asset liability study down \$3K. Also a custodian search would be an extra \$20K if needed. It was noted by Mr. Barnes that the asset liability study was not likely to be needed before 3 years since one was just completed and RVK would be utilizing those results.

Mr. Barrett provided the following proposed motion after review with OGC as part of finalizing the RVK contract:

Make a motion to enter into a contract with RVK, Inc. for Investment Consulting services, as outlined in the city's RFP, for an initial term of 5 years with the option to renew annually each of the following 4 years. The annual retainer fee shall be \$180,000 for the first two years, increasing by the greater of 3% or CPI-U annually thereafter, with the understanding that the City will pay RVK an additional \$20,000 for a custodian search and \$42,000 upon the completion of any Asset-Liability studies as requested by the Board.

Mr. Greive made the motion as read. Mr. Mousa seconded the motion. Acting Chair Shuman transitioned Chair duties back to Chair Bernardo. Chair Bernardo asked if there was further discussion and there was none. A vote was taken and the motion passed unanimously.

6. OLD BUSINESS

Segal Experience Study, approval of assumptions

Mr. Powell from Segal was on the phone and began to cover the assumptions as presented in the summary document. The assumptions reflected the information covered in detail in the experience studies provided last month. Mr. Greive pointed out that the new assumptions looked good based on Segal's detailed analysis and indicated assumption in place have been good. It was noted that a decision would need to be made on moving the discount rate from 7.2% to 7.0% for the draft valuation.

Mr. Mousa moved to accept the proposed changes along with the 7.0% discount rate. Mr. Greive seconded the motion. Chair Bernardo called for discussion on the motion.

Mr. Greive supported moving to 7.0% which is a more conservative approach. Mr. Mousa agreed. Mr. Mathis agreed as well and commented that with the capital market assumption just over 5% there was still more room to move. Mr. Greive commented that the capital market assumption was a real rate and that inflation would need to be added to it get the nominal rate which based on recent history would put it closer to the 7.0% figure. Mr. Powell added that the capital market assumption is a guidepost and that is the assumption we have the least information about in general. Ms. Shuman agreed with moving to 7.0%. Chair Bernardo agreed with moving to 7.0% directionally as well. Mr. Wood asked if all of this is with the understanding of the unfunded liability. Mr. Mousa replied yes.

Chair Bernardo took a vote and the motion passed unanimously.

Mr. Greive asked about timing to get a draft of the valuation results. Mr. Powell said the target for preliminary draft was in the February timeframe.

Mosley Pension Payments

Mr. Stadelmaier provided a brief summary of the history of payments for Mr. Mosley and the COLA issue. Based on previous review the board should consider changing his payment amount and also collecting overpayments.

Mr. Wood asked about due process and if it has been provided. Mr. Sawyer indicated yes, and that the Board is allowing Mr. Mosley to present today. Mr. Sawyer also indicated this is not an evidentiary hearing. There was previous discussion regarding the COLA issue dating back to 2011-2013. During that timeframe the matter was reviewed and the Board clarified the policy by adopting an update to the Board Rules and Regulations to clarify the Ordinance Code requirement of a new 5-year waiting period when a rehired retiree re-retires with a higher pension benefit.

Mr. Mousa asked Mr. Sawyer to confirm that from a compliance perspective the Board would have no choice but to correct the error and recover the funds once the error was discovered. Mr. Sawyer said yes, otherwise the Plan risks a qualification issue from the IRS. With this in mind, Mr. Mousa suggested any discussion should focus on the COLA issue itself. Mr. Sawyer said that the Board's policy includes the restart of the 5-year period based on previous review of the matter.

Mr. Wood commented that the benefit is not one benefit but two benefits: the regular retirement and the COLA. There was some discussion at this point about other errors and how they have not been corrected, particularly the vesting issue where non-vested members were paid more than just employee contributions in the past. Mr. Mousa commented that this was a different matter and was based on the Board documenting a new ongoing practice.

Ms. Shuman asked Mr. Wood if he was saying he was disagreeing with the previous Board ruling regarding the COLA restart. Mr. Wood said yes he did disagree with it.

Mr. Mosley's attorney Mr. Delegal addressed the Board. He provided two documents which included a presentation and a draft memo from Tim Horkan to Brian Parks and Kim Taylor of the City Council Auditor's office dated April 5, 2012. (Both documents are available for review.)

Mr. Delegal reviewed Mr. Mosley's history with the Pension including retiring originally in 1997 under a window that would only pay the COLA once a person reached age 60 after 5 years. He rejoined the City in 2005 and retired again in 2010. Mr. Delegal contends Mr. Mosely was told by Pension staff he was due the COLA immediately in April 2011. A 2012 audit questioned the issue and OGC reviewed the matter. Mr. Delegal referenced the April 5, 2012 memo (labeled at the top as "DRAFT—FOR DISCUSSION PURPOSES ONLY") which cited that not requiring a restart to the COLA wait-period was reasonable. Mr. Delegal acknowledged that OGC indicated a different view shortly after this and described it as a change in opinion.

Mr. Delegal also covered a memo from outside legal counsel Robert Klausner which was requested by the Board and opined that a retiree who rejoined the City (and the

plan) and then subsequently re-retired would be subject to a restart of the COLA wait period if their new calculated benefit was higher. Mr. Delegal described the memo as not addressing the provisions of the Ordinance Code.

Mr. Delegal then reviewed the Ordinance Code language in 120.209. There was focus on the terms “accrual” and “suspended” in reference to the COLA benefits. This included reference to accrual of COLA benefits for retirees that join the DC which shall not be affected during re-employment period. Mr. Delegal argued that the code language points to the COLA eligibility starting during the original retirement period and should not restart with the new retirement. (Handout available for further detail.)

Board discussion followed Mr. Delegal’s presentation.

Mr. Mousa asked Mr. Stadelmaier if he agreed that the accrual of COLA benefits continues for retirees that rejoin the DC Plan. Mr. Stadelmaier said yes.

Mr. Mousa gave background on his personal relationship with Mr. Mosley saying he has known him since 1987. He also indicated he didn’t want that to in any way influence his decision regarding the matter as it relates to the Pension Fund. He also shared he had a meeting with Mr. Sawyer, Mr. Barnes and Mr. Stadelmaier to review the matter in detail.

Mr. Mousa said it bothers him that we make errors and don’t take monetary responsibility for the errors. He further explained that he understands from staff that errors of this nature are common and that because Mr. Mosley is a complicated case that likely contributed to the error. He further added his understanding was that the Board has an obligation to correct the error financially once discovered.

Mr. Mousa asked Mr. Sawyer about use of the term “suspended” in reference to the COLA and why that was used. Mr. Sawyer indicated that language acknowledges that at the time of reemployment it is not known how long the employee will work and if they will earn an increased benefit (as was the case for Mr. Mosley).

There was further discussion on the ordinance language to continue the COLA for retirees that joined the DC Plan upon re-employment. Mr. Delegal explained this provided evidence of the use of the term “accrual” in the code language. Mr. Mousa indicated that language was still specific to employees joining the DC Plan.

Mr. Wood asked if the Board took any affirmative action in regards to this matter when it was initially reviewed. Mr. Sawyer said the Board updated and approved the Board rules on this matter in October 2012.

Ms. Shuman asked if there were other cases that fit Mr. Mosley’s profile. Mr. Stadelmaier said there were no known cases that matched the relevant facts on this case and that staff did investigate this.

Mr. Mousa said the purpose of the COLA is to keep pay as undiminished and that because the benefit was recalculated using new, higher pay it was still serving its intended purpose by restarting the COLA wait-period using the new benefit.

Ms. Shuman pointed out that since the Board adopted the rule in October 2012 that perhaps no past practice was really established before that.

There was discussion regarding the April 5, 2012 memo. Mr. Sawyer indicated drafts are not legal opinions and that drafts for discussion are common and not final.

Ms. Shuman wanted to confirm previous board rulings on this matter. Mr. Sawyer said the Board voted on the updated rules and regulations which included the COLA restart language. There was no final vote on changing of Mr. Mosley's pension.

Mr. Mousa indicated the need for the Board to make a decision on this matter. He also expressed the view that if the Board does not collect the overpayment that funds need to be provided to the Pension Trust in some way for compliance with IRS rules.

Mr. Mousa made a motion that the COLA should be calculated after a new five year period upon the 2nd retirement and a mutually satisfactory repayment plan between the Board and Mr. Mosley should be reached. After some discussion Mr. Mousa amended the motion to reduce the payment to what it should be based on calculation of COLA after a new five year period upon the 2nd retirement and that the Board direct to recoup overpaid funds based on this method. Mr. Greive seconded the motion. The Chair asked for any further discussion and took a vote. The motion passed 6-1 with Mr. Wood having the lone dissent.

Mr. Greive motioned to recoup the overpaid funds by reducing Mr. Mosley's base pension by 10% which would take about four years to complete recovery. Mr. Mathis seconded the motion. The Chair asked for any further discussion and took a vote. The motion passed 6-1 with Mr. Wood having the lone dissent.

Mr. Wood reiterated that he sees the payments to Mr. Mosley as two separate benefits, retirement and COLA. He also stated he believes the Board is making their decision on a bad set of facts. Mr. Mousa commented the decision is based on OGC opinion and outside counsel opinion.

7. ADMINISTRATIVE

Mr. Messick reported that Board member Mr. Kilcrease is recovering from surgery.

Mr. Wood said that REA would be sending a letter to the Pension office recommending that only one pay-stub/letter be mailed for months with three pay-periods where the payment changes twice. Mr. Stadelmaier reported this would be good to reduce the mailings and that while there is still some noise related to the 3rd pay-period month the

amount of calls and confusion on the matter was less in November than in June.

Mr. Stadelmaier reported that the Pension Portal has been tested and is in code freeze now and scheduled to go-live in January. Information regarding pension annuity payments to retirees will be available online. Initially we are planning a “soft” go-live before sending broader communications to retirees.

Mr. Stadelmaier pointed out the Pension Office procedure for handling questions and cases regarding different scenarios for rehired retirees. This was prompted based on an increase in inquiries on the subject. Mr. Stadelmaier asked for/welcomed any Board questions or comments on the write-up. Mr. Mousa said the footnote regarding part-time should be updated to reflect the Board rule established that no more than 50 hours in a 2-week period. Mr. Stadelmaier said he would update the document.

8. INFORMATION

The next regular BOT meeting will be Thursday, January 24, 2019, at 2 PM.

9. PRIVILEGE OF THE FLOOR

None

10. ADJOURNMENT

Chair Bernardo adjourned the meeting shortly before 4 PM.