

# City of Boynton Beach Municipal Firefighters Pension Trust Fund

## MINUTES

November 7, 2018  
9:00 AM

The regular meeting of the Board of Trustees of the City of Boynton Beach Municipal Firefighters Pension Trust Fund was called to order by the Board by Mr. Matt Petty – Chairman on November 7, 2018 at 9:10 A.M. at 2080 High Ridge Road, Boynton Beach, Florida.

### **TRUSTEES PRESENT:**

Mr. Matt Petty – Chairman; Mr. Jon Raybuck – Secretary; Mr. Stan Cale – Trustee; Mr. Robert Taylor – Trustee.

### **ABSENT:**

Mr. Glenn Joseph - Ex-Official & Ms. Helen Bush - Trustee.

### **OTHERS PRESENT:**

Mr. Adam Levinson, Board Attorney; Mr. Dave Williams, Plan Administrator; Mr. David West – AndCo Consulting; Mr. Shawn Weeks & Mr. Luke Henderson.

It should be noted that there was a quorum for the Board to have an official meeting.

### **PUBLIC DISCUSSION:**

No public comments presented.

### **CONSENT AGENDA:**

### **APPROVAL OF THE MINUTES:**

The Board of Trustees reviewed the minutes for the August 1, 2018 meeting. A Motion was made by Mr. Taylor to approve the minutes. The Motion was seconded by Mr. Raybuck. The Motion passed 4-0.

### **APPROVAL OF THE WARRANTS:**

Warrants 111 through 141 were presented to the Board for approval. After review & consideration a motion was made by Mr. Raybuck to approve Warrants as presented. The Motion was seconded by Mr. Cale. The Motion passed 4-0.

### **NEW / UNFINISHED BUSINESS:**

**Compensatory Time for AFC:** Mr. Williams advised that he discussed this matter independently with Mr. Petty & Mr. Raybuck. The group affected was identified by Mr. Dorn and Mr. Petty. Formal notices were sent to those involved outlining the matter and letting each know the optional contribution to make should they want their AFC's adjusted by the actuary. Once the funds are received, the actuary will recalculate accordingly, and adjustments be made as warranted.

**Educational Time for AFC:** Mr. Petty advised that when the Board of Trustees transitioned from Ms. Barbara LuDue to Pension Resource Center (PRC), the longstanding practice of treating statutory Educational Pay as pensionable compensation was discontinued in September 2016 and remains that way. As it is understood a PRC representative unilaterally construed statutory Educational Pay as being excluded (not pensionable). As a result, pension contributions ceased being deduced through payroll. In May of 2018, Mr. Robert Dorn learned of this matter and began to research and actively discuss the matter with the Board.

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Board of Trustees advised that they were not aware of the unilateral action taken in 2016 by PRC to stop pension contributions for statutory Educational Pay. The Board of Trustees advised that PRC did not have to authority to make such a change, which was not authorized by the Board.

Mr. Levinson provided a legal opinion and confirmed that statutory Educational Pay is pensionable compensation. Other points of observation noted were as follows:

- The prior Administrator did not have the lawful authority to make an interpretation of this nature.
- The Board was unaware of the reported action taken by the prior Administrator in 2016 and did not authorize or sanction any action cited above.
- Statutory Educational Pay since its inception has been pensionable and valued as such in the actuarial valuation.

Input was also heard from Mr. Shawn Weeks and Mr. Luke Henderson who both affirmed that it was their understanding that statutory Educational Pay is pensionable compensation.

A motion was made by Mr. Taylor to reaffirm that statutory Educational Pay is in fact pensionable compensation. Further, to direct the Plan Administrator to communicate with the city representative(s) to restore the status as pensionable. The Motion was seconded by Mr. Raybuck. The Motion passed 4-0.

Retired Members: Mr. Cale then made a motion that once restored, the Plan Administrator should work with the city representative(s) to identify those retired members affected and the amount of pension contributions owed by each. Those members would have 45 days to make the contribution and their AFC would be adjusted by the actuary. The Motion was seconded by Mr. Taylor. The Motion passed 4-0.

Active Members: Mr. Raybuck then made a motion that once restored, the Plan Administrator should work with the city representative(s) to identify those active members affected and the amount of pension contributions owed by each. Those members would be permitted to use their deferral pay in August 2019 to make their contributions, if the city would withdraw the contribution accordingly. The Motion was seconded by Mr. Taylor. The Motion passed 4-0.

**DROP Account – Beneficiary:** Prior to beginning the discussion, Mr. Henderson handed out a letter from Mrs. Amanda Oxendine the daughter of Mrs. Oxendine. In short, the letter outlined her belief the funds could remain in the pension Fund. The Trustees took the time to review the foregoing.

Mr. Levinson cited that he was contacted by Mr. Williams to ensure survivors ability to maintain the drop account within the Fund. Mr. Levinson researched the matter and advised the city ordinance<sup>1</sup> refers only to “employees” being in the Fund, there is no language for Beneficiaries. Mr. Levinson said there is no language that allows a DROP benefit for anyone other than an employee. Mr. Levinson also cited a section in the summary plan description “Should you pass away during your participation in the DROP Plan, your beneficiary will receive a single lump sum payment of the balance in the DROP Account”. Mr. Levinson said there is a clear distinction between employees (participants active or retired) and survivors.

The Trustees believe this member was the first to pass away post retirement that had a DROP Account. Another member was cited who passed while still employed. Mr. Petty asked Mr. Williams to review that member as well.

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<sup>1</sup> Sec 18-222 (l)

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Mr. Henderson stated he assumed the funds would have to come out, but felt the ordinance was not clearly defined.

Mr. Levinson felt an administrative rule would be in order. Until such time, the affected account(s) could remain. Once the formal rule is enacted, notice could then be provided.

Mr. Taylor made a motion that based on the legal opinion received, drop funds for any beneficiary would have to be removed from the Plan. Further, that the Board of Trustees do not have the latitude to allow the funds to remain. As such, Mr. Levinson is being requested to prepare an administrative rule for the next meeting. The rule should adopt the Florida Retirement System standard of 90 days to remove the funds (by direct pay and/or rollover). The Motion was seconded by Mr. Cale. The Motion passed 4-0.

Mr. Williams was directed to write a letter to Mrs. Oxendine thanking her for the letter and letting her know the action taken so she has ample time to prepare.

**Trustee Resignation:** Mr. Petty announced the resignation of Helen Bush. Mr. Petty advised that Mr. Williams notified the city clerk's office about the vacancy to serve out the term through December 2020. The Board provided their accolades for Mrs. Bush's efforts since 2011. The Board felt that Mrs. Bush served with honor and distinction. The Board directed Mr. Williams to obtain a token of appreciation that could be presented to Mrs. Bush.

### **ATTORNEY'S REPORT:**

Mr. Levinson advised that an application for disability was transmitted to Mr. Sidaway by the Plan Administrator. Upon receipt of the properly completed application, Mr. Levinson's office will begin the formal review. Mr. Levinson was advised by the Board that they would like matters of this nature to be addressed at a special meeting.

Mr. Levinson reviewed the new special tax notice that will be used going forward.

Mr. Levinson presented a resolution adopting the Plan Administrator as the records management liaison. A motion was made to accept as outlined by Mr. Raybuck, which was seconded by Mr. Taylor. The Motion passed 4-0.

Mr. Levinson cited that the 175 state funds were down again this year. This was the second year it was reduced. If next year it goes down again, the city could seek a formal review from the state. The concern was raised due to the nexus between the 175 and the cola funding. \$789,121.01 was received and transmitted to the custodian on October 18, 2018.

### **INVESTMENT MONITOR'S REPORT:**

Mr. David West made the presentation to the Board for AndCo Consulting. Mr. West gave an overview of the domestic and foreign markets to the Board. Incoming investments based on investment policy of the Board. Timing the market is not the intent. Potential reallocation may come in following quarters.

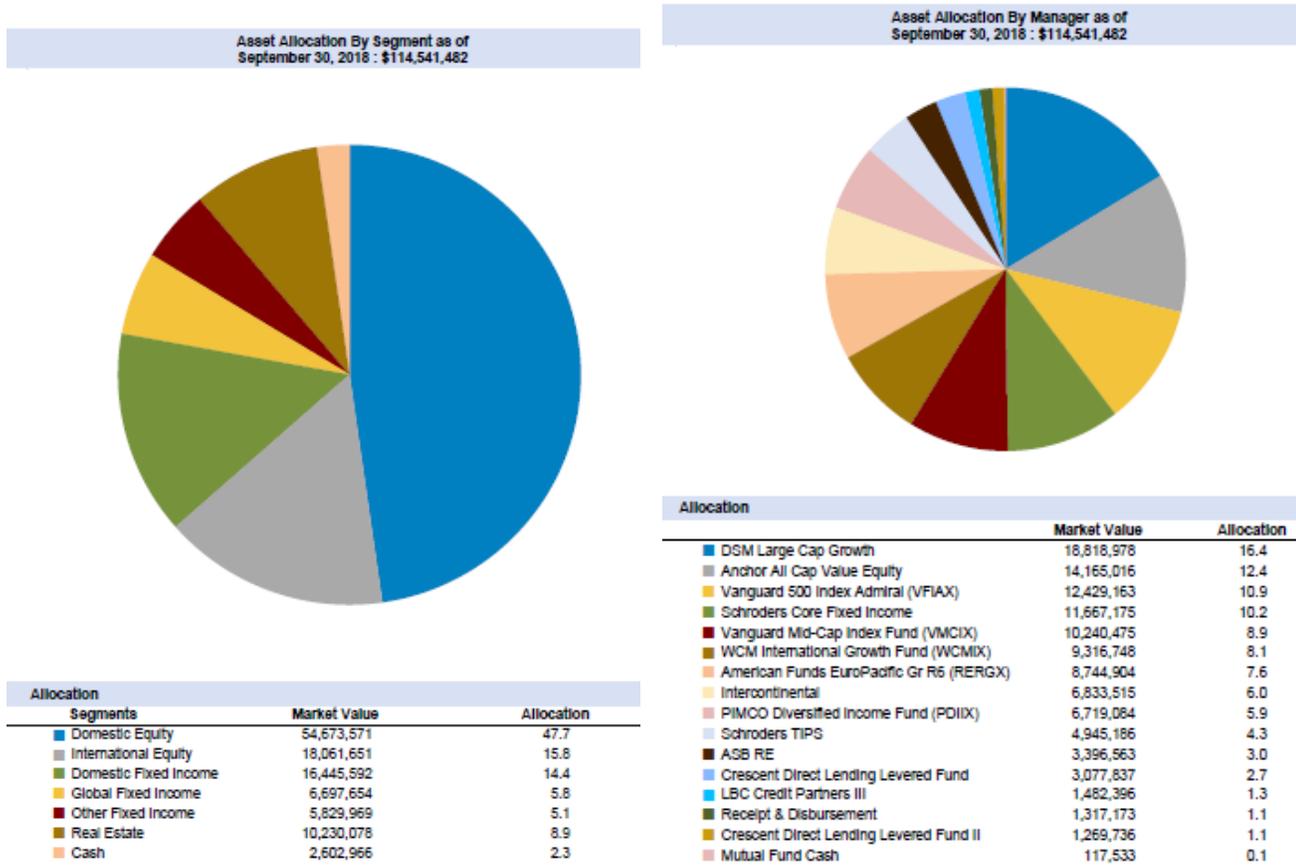
Mr. West advised that on 09/30/2018 the Fund's value was \$114,541,482. Mr. West reported to the Board the following investment reports for the portfolio:

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**RETURN PERIODS**

<b>NAME</b>	<b>Quarter</b>	<b>Fiscal Year</b>	<b>1-Year</b>	<b>3-Year</b>
Total Fund Net	3.19%	8.91%	8.91%	11.24%
Total Fund Gross	3.27%	9.29%	9.29%	11.69%

Asset Allocation and Manager Allocation as reported as follows:



Mr. West fielded questions related to the underperformance of DSM. Trustees asked this be revisited next quarter.

The Board of Trustees posted the entire investment review on-line at:  
<http://bbffp.org/docs/investments/2018-09-30%20Boynton%20Beach%20Firefighters%20Quarterly%20Report.pdf#zoom=100>

**PLAN ADMINISTRATOR:**

Mr. Williams thanked the Board for their support during the transition since the passing of Mr. Dorn. Mr. Williams reflected that he hit the ground running and hopes that the membership has not experienced any level of service.

Mr. Williams outlined the transfer from active drop to normal retirement for the following members: D. Kinser, C. Wandell, J. Julia, M. Landress. The transfer of the foregoing was handled by Mr. Dorn prior to his passing.

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Mr. Williams cited new active drop members as follows: M. Reyes, L. Clemons and N. Munnial. Formal options pending. The Board asked that Mr. Williams include their formal selections in the next meeting.

The 2019 meeting schedule was provided to the Board and will be posted on-line.

**OPEN DISCUSSION:**

Issues with PRC was raised.

The Board thanked Mr. Levinson for sponsoring the retiree reception.

**ADJOURN:**

Trustee Raybuck made a Motion to adjourn the meeting. Trustee Cale seconded the Motion. Motion passed 4-0. The meeting was adjourned at 11:47 A M.



Matt Petty, Chairman

***FOR THE BOARD***