

HOLLYWOOD POLICE OFFICERS' RETIREMENT SYSTEM
Office of Retirement
4205 Hollywood Blvd., Suite 4
Hollywood, Florida 33021

July 26, 2019

MINUTES

A regular meeting of the Hollywood Police Officers' Retirement System was held on Friday, July 26, 2019, at 10:33 A.M., in the Office of Retirement, 4205 Hollywood Blvd., Suite 4, Hollywood, Florida 33021.

PRESENT:

D. Strauss, Chairman, C. Marano, Secretary, C. Boyd, P. Laskowski, and R. Wise. As there was a quorum present, Trustee V. Szeto attended via conference call.

Also present were Eric Alfonso and Karen Lafrance, Plan Members. Eugene "Mac" Champion, City of Hollywood; Crystal Wamble, Eagle Asset Management; Stuart Kaufman, Legal Counsel - Klausner, Kaufman, Jensen & Levinson; David M. Williams, Plan Administrator.

PUBLIC COMMENT

Mr. Eric Alfonso spoke to the Board regarding the transfer of his General Employees Drop Account to the Police Pension Plan. He stated he and Mr. Luis Ortiz would like to have their respective GE Drop Accounts deposited retroactively when they would have ended their participation in the GE Drop Plan. If not for the 2011 referendum, that transfer would have happened seamlessly. In an effort to restore, the Board was not opposed, and Mr. Kaufman did not object. Motion to deposit the Drop Account for the affected members when it would have taken place, absent of the referendum by Mr. Laskowski, seconded by Mr. Strauss. All board members voted yes.

READING OF THE WARRANTS

The warrants since the last meeting were reviewed and executed by the Board of Trustees.

APPROVAL OF THE MINUTES OF THE JUNE 28, 2019 MEETING

Mr. Strauss asked if there were any additions or corrections to the Minutes of the June 28, 2019 pension board meeting. Mr. Boyd made a motion to approve the Minutes of the June 28, 2019 pension board meeting, which was seconded by Mr. Laskowski. All board members voted yes.

ATTORNEY'S REPORT

Lafrance Informal Hearing: The Board members were independently provided all the relevant material related to this claim prior to the meeting. Mr. Kaufman reviewed the elements of the claim and the findings of Doctor(s) Jeffrey Worth, Roland Kaplan and Richard Reines. Ms. Lafrance (who was present) was asked if she wished to speak to the Board, in which she declined.

Mrs. Marano made the motion that effective immediately based on the totality of circumstances, given Ms. LaFrance's medical condition, she is unable to render useful and efficient service as a police officer to the City. The Board finds that the injury occurred in-the-line-of-duty and is total and permanent. Furthermore, according to Chief O'Brien, in a letter dated July 22, 2019, "there is no suitable light duty assignment for Officer LaFrance." Finally, the Board further finds that there are no disqualifying events which would preclude Ms. LaFrance from receiving a disability. Mr. Laskowski seconded the motion. All board members voted yes. The Board express their thanks for the valuable service Ms. Lafrance provided to the City of Hollywood.

Cyber Insurance: Mr. Kaufman advised a memo was forthcoming from his firm related to cybercrimes and coverage.

Order Adoption: Based on the action of June 28, 2019, Mr. Kaufman drafted two Orders for the Board to consider.

The first order was presented as follows:

FINAL ADMINISTRATIVE ORDER GRANTING RE-CLASSIFICATION OF BENEFITS

THIS CAUSE came before the Board, on proper notice, on June 28, 2019 on the request of David Strauss, Larry Bernstein, Lyle Bien, Nicholas Singley, Luis Ortiz, Ivette Buoni, Tammy Clyde, Van Szeto, Eric Alfonso, Gregory Forsyth, Vincent Rosiak, Tomas Hernandez, Brian Joynt, Mark Ruggles, Alexander Perez, Dwayne Chung, Michael McBride, Kurt Kowalski, Stephanie Szeto, Debra Levy, Donnard Huneke, Matthew Goodnow, Victor Tetter, and Kyle Perez ¹ to be treated as exempt from the 2011 Hollywood City Ordinance changes deemed invalid by the decision of the Florida Supreme Court in the case of *Headley v. City of Miami*, 215 So. 3d 1 (Fla. 2017).

In the *Headley* decision, the Florida Supreme Court upheld a decision of the Fourth District Court of Appeal finding that the City of Hollywood's application of Section 447.4095, Fla. Stat. (the Financial Urgency law) Violated Article I, Section 6 and 10 of the Florida Constitution and determined that the action was void, mandating a reinstatement of the Status quo as it existed prior to the 2011 ordinance.

During the pendency of the litigation, the Broward County Police Benevolent Association (PBA) entered into a collective bargaining agreement (CBA) with the City waiving any future remedy after the effective date of the agreement. The agreement was executed on July 29, 2013.

Between the 2011 ordinance and 2013 waiver, several members of the plan either became eligible to retire or were promoted positions outside of the PBA bargaining unit. In either case, the CBA could not lawfully be made applicable to those individuals. Terms and conditions of employment for managerial (non-bargaining unit) employees are not subject to collective bargaining. *City of Orlando v. Orange County PBA*, 435 So. 2d 275 (Fla. 5th DCA 1983). As to those persons becoming eligible to retire prior to the waiver, the terms of their pension rights became fixed as if they actually retired. *O'Connell v. State Dept. of Admin.*, 557 So. 2d 609 (Fla. 3d DCA 1990); *Bean v. State, Div. of Retirement*, 732 So. 2d 391 (Fla. 2d DCA 1999).

As the affected individuals were not subject to a waiver by the bargaining agent for either of the reasons outlined above, the pre-2011 ordinance should be applied to their benefits.

Accordingly, the applicants request is hereby granted.

Mr. Laskowski made the motion to accept the Order as approved on June 28, 2019. Motion seconded by Mr. Boyd. Motion approved 4-0-2 (Mr. Strauss and Mr. Szeto abstained, and Form 8 completed).

¹ It was later noted that Manuel Marino will be entitled to the benefits outlined in first Order of the Board, as he was a staff member (Major) outside of the bargaining unit and therefore not affected by the waiver adopted by the collective bargaining agreement approved in July 2013.

Mr. Kaufman reviewed the second Order and it was presented as follows:

FINAL ADMINISTRATIVE ORDER GRANTING RE-CLASSIFICATION OF MEMBERS AS GROUP 1 PARTICIPANTS

THIS CAUSE came before the Board, on proper notice, on June 28, 2019 on the request of Robert Wolfkill, Jeffrey Mathis, Michael Moxley, Renna Lee Myers, Claudio Loveras, Brian Bartlett, James Barnick, Barry Rumble, Cassandra Jones, Philippe Archer, Cheri Judd Stabile, Jerry Sommer, and Jeffery Lebron to be treated as exempt from the 2011 Hollywood City Ordinance changes deemed invalid by the decision of the Florida Supreme Court in the case of Headley v. City of Miami, 215 So. 3d 1 (Fla. 2017).

In the Headley decision, the Florida Supreme Court upheld a decision of the Fourth District Court of Appeal finding that the City of Hollywood's application of Section 447.4095, Fla. Stat. (the Financial Urgency law) violated Article I, Section 6 and 10 of the Florida Constitution and determined that the action was void, mandating a reinstatement of the Status quo as it existed prior to the 2011 ordinance.

During the pendency of the litigation, the Broward County Police Benevolent Association (PBA) entered into a collective bargaining agreement (CBA) with the City waiving any future remedy after the effective date of the agreement. The agreement was executed on July 29, 2013.

Following a period of lengthy negotiations, the City restored most pre-2011 benefits. The applicants retired while these negotiations were pending but, had they remained employed, would have been classified as Group 1 participants.

The Board determined that this small group of individuals would be placed in a position of inequality with similarly situated plan participants. Section 185.01 provides for a uniform system of retirement benefits that meet the minimum standards of Chapter 185. No local ordinance may result in the loss of minimum benefits and standards, one of which is a "uniform retirement system for the benefit of police officers." The Florida Supreme Court and the District Courts of Appeal have repeatedly held that pensions laws are to be "liberally construed in favor of the intended recipients." See, City of Tampa v. State, 155 Fla. 177, 19 So. 2d 697 (1944); Scott v. Williams, 107 So. 3d 379 (Fla. 2013); Board of Trustees v. Town of Lake Park, 966 So. 2d 448 (Fla. 4th DCA 2007).

The Board finds that the above statutory mandate requires the inclusion of the applicants as Group 1 participants but with the benefits accrued as of the date of retirement.

Mr. Boyd made the motion to accept the Order as approved June 28, 2019. Motion seconded by Mr. Laskowski. All board members voted yes - motion approved 6-0.

ADMINISTRATIVE REPORT

New Drop Accounts: Mr. Williams advised that based on the foregoing Orders being adopted, he will begin the review the cited members. Mr. Williams indicated that some of the members exceeded 22 years of service. As such, they wanted to restate their retirement dates at 22 years and have a Drop Account established till their actual date of separation. Mr. Williams asked for legal direction in this matter. Mr. Kaufman advised he would prepare a legal review for the Board to consider at the next meeting.

Corrections Matter: Mr. Williams was advised by Mr. Sparkman the Corrections Matter is being appealed to the court.

Audit Letter of Engagement: Mr. Williams presented the 2018-1019 letter of engagement to the Board to consider. Mr. Kaufman reviewed for legal purposes and approved same. Motion to approve the letter of engagement of Kabat, Schertzer, De La Torre, Taraboulos & Co., LLC for the 2018-2019 Audit and annual report by Mrs. Marano, seconded by Mr. Laskowski. All board members voted yes.

EAGLE ASSET MANAGEMENT - QUARTERLY INVESTMENT PRESENTATION

Mrs. Crystal Wamble appeared before the Board and stated the market value of Eagle Account was at \$28,021,456. as of June 30, 2019. Since inception (01-08-03) the Eagle Small Cap Account realized an annualized net return of 10.44%, compared to the Russell 2000 of 10.15%.

For the quarter ending June 30, 2019, Eagle Small Cap Account returned 3.11%, compared to 2.10% for the Russell 2000. On a one year rolling basis, the portfolio returned -3.32% compared to the benchmark of 3.31%. The 3 & 5-Year returns were valued at 11.05% & 7.77% in comparison to the benchmark returns of 12.30% & 7.06% respectively.

Mrs. Wamble provided a market overview: Eagle Small Cap Core returned 3.41% versus the Russell 2000® index return of 2.10%. The Russell 2000® Value's P/E is the cheapest relative value to Growth since 2001. Economic indicators (term spreads and credit spreads) suggest the value discount is perhaps justified. Tariff controversies, tax changes impacting capital spending and weakness around the housing sector have contributed to the current earnings slowdown. Recent stock returns follow tariff news flow with some estimating a 50bps hit to GDP but the probability of the market pricing in a full-blown trade war and wiping out a year or two of earnings is hard to gauge.

Contributors to relative performance - Health Care and Energy.

Detractors from relative performance – Information technology and Consumer Staples.

The Board welcomed Mrs. Wamble who replaced Mr. Rick.

OPEN DISCUSSION

Mr. Williams advised the meeting screen monitor was out of service. By consensus the Board directed Mr. Williams to replace with a larger screen so members of the public attending the meeting can easily view material being presented.

MEETING ADJOURNED

There being no further business, the meeting was adjourned at 11:04 A.M.

The next scheduled meeting is August 16, 2019 at 10:30 AM.

Respectfully submitted,

APPROVED:

C. Marano, Secretary

D. Strauss, Chairperson