

**MINUTES**  
**SPECIAL PENSION BOARD MEETING**  
**CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND**  
**TUESDAY, SEPTEMBER 17, 2019 AT 9:00AM**

**1. CALL TO ORDER**

Chair Shaw called the meeting to order at 9:10a.m.

**2. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Board Members present: Chair Phyllis Shaw, Vice Chair George Keller, Secretary Robert Strauss, Christopher Cassidy, Charles Howell (telephonically 9:15am), and Cintya Ramos. Also present: Executive Director Christine Bailey; and Ronald Cohen of Rice Pugatch Robinson Storfer & Cohen.

a. September 17, 2019 Special Board Meeting Agenda

**MOTION** made by Trustee Greene, seconded by Trustee Cassidy, to adopt the September 17, 2019 Special Board Meeting Agenda. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

**3. LEGAL (Ron Cohen – Rice Pugatch Robinson Storfer & Cohen)**

- a. Update on the City of Hollywood v. Board of Trustees of City of Hollywood Employees' Retirement Fund – consideration of a Settlement Agreement with the City of Hollywood.
- b. Mr. Cohen summarized recent events including the draft agreement that he prepared and submitted to the City for consideration. He noted that the City Attorney's Office had requested changes to the draft. He also noted that the Fund had received two letter from the State regarding the prefunding of the 2012 13<sup>th</sup> check. He noted that the second letter included the correct amount for the prefunding of the 13<sup>th</sup> check.

**MOTION** made by Trustee Strauss, seconded by Trustee Keller, to allow Trustee Howell to attend the meeting telephonically. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

Trustee Howell granted permission to record his participation at the meeting.

Mr. Cohen noted that the draft agreement proposed language in section 2 which stated that "The City agrees to contribute the entire annual required contribution in the future, which will include a pre-funding component for 13<sup>th</sup> checks and to keep the Plan as being state accepted."

Mr. Cohen noted a response to the submitted draft agreement from Mr. Fallik of the City Attorney's Office which stated that "After our initial review of the agreement, we have concerns about Section 2. We oppose the inclusion of a commitment by the City to pre-fund the 13<sup>th</sup> check benefit. As you know, the state is requiring that commitment from the City, and the state has the authority to enforce that commitment by withholding revenue sharing from the City. It goes without saying that such a commitment to the state is a very serious matter. On the other hand, there is no reason for the City to grant the Board the express authority to enforce that same commitment. Our solution would be to delete Section 2 in its entirety. I will try to attend the meeting tomorrow morning."

He further noted that, in response to a request for the City's proposed changes to the language, Mr. Fallik responded in an email that stated "The City agrees to contribute the entire annual required contribution in the future, which will include a pre-funding component for 13<sup>th</sup> checks, and to keep the Plan as being state accepted. However, the City reserves the right to challenge the amount of the annual required contribution and any decision by the state not to accept the plan;

provided that this reservation of rights does not include the right to challenge the inclusion of a pre-funding component in the annual required contribution.”

The Board discussed the proposed language changes. Trustee Strauss noted that the Agreement related to the 13<sup>th</sup> check and the language was related to other issues. Mr. Cohen stated that while the City’s proposed language included the prefunding of the 13<sup>th</sup> check, among other things, the City would still have the right to challenge the amount of the 13<sup>th</sup> check. He also stated that the language may be a concession that gives the City a right to challenge the annual required contribution. He recommended that the City’s proposed language not be included. He recommended that the current language in the draft be reduced to “The City agrees to contribute the entire annual required contribution in the future, which will include a pre-funding component for 13<sup>th</sup> checks.”, removing the language “and to keep the Plan as being state accepted”.

Ms. Bailey noted that the determination of the annual required contribution is the responsibility of the Board, and that the Board should not agree to any language that suggests the Board is granting the City a right to challenge that number. Similarly, the Board should not agree to language that allows the City to keep or allow the Plan to not be State accepted.

Mr. Fallik noted that, for consistency, the City’s proposed language should be amended to read “this reservation of rights does not include the right to challenge the inclusion of a pre-funding component for 13<sup>th</sup> checks in the annual required contribution.” He also noted that, in response to the Board’s concerns, the proposed language could be “However, the City reserves the right, if any, to challenge”.

Trustee Shaw noted that the State informed the Board that as long as the 13<sup>th</sup> check language remained in the Ordinance, the City would be required to prefund the 13<sup>th</sup> check. She further noted that the State also informed the Board that the City was required to consent to contribute the entire annual required contribution.

Trustee Shaw noted that the Board had been the most cooperative with the City and yet there was an agreement over language that the City had already agreed to with the State. She recommended that the agreement include a reference to the State’s September 13<sup>th</sup> letter. She further noted that this matter has already been very costly to the City.

Trustee Cassidy requested that the 13<sup>th</sup> check in the agreement be changes to supplemental pension distribution to match the State’s communication. He asked Mr. Fallik if the City would accept Mr. Cohen’s proposed change. Mr. Fallik requested the opportunity to discuss the new proposed language with the City Attorney.

Trustee Keller noted that the City had been working closely with the State, the City Attorney’s Office and the Commissioners on the language in the agreement and last second changes were not appropriate. He thanked the Board for their posture and patience. Mr. Fallik informed the Board that Mr. Gonzales was okay with the language that Mr. Cohen proposed with a period after checks. He advised that Mr. Gonzales wanted to let the Board know that the City Attorney’s

request to remove section 2 from the agreement, was in no way nonnegotiable, but was an initial negotiate point.

Mr. Cohen advised Mr. Fallik of the Board's additional changes to the draft agreement, including the inclusion of a reference to the State's September 13<sup>th</sup> communication and that references to the 13<sup>th</sup> Check be replaced by supplemental pension distribution.

**MOTION** made by Trustee Greene, seconded by Trustee Keller, to accept the changes as stated and go forward with it and present the agreement to the Commission for their approval. In a voice vote of the members present, all members voted in favor. **Motion** passed 7-0.

Mr. Cohen noted that the agreement was an entire package and that no single part of the agreement could be rejected. He noted that the package included the five-year amortization of the outstanding prefunding, which was a concession, made for the other parts of the package. Mr. Cohen noted that the agreement stated that the City would not begin payments until fiscal year 2021.

4. **PUBLIC COMMENTS**

There were no public comments.

5. **TRUSTEE REPORTS, QUESTIONS AND COMMENTS**

There were no Trustee comments.

6. **ADJOURNMENT**

**MOTION** made by Trustee Greene, seconded by Trustee Keller, to adjourn the meeting. In a voice vote by the members present, **Motion** passed 7-0. Meeting adjourned at 9:55a.m.



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Phyllis Shaw, Chair

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Date

11/25/2019