

MINUTES
REGULAR PENSION BOARD MEETING
CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND
TUESDAY, AUGUST 27, 2024 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 Barbara Armand; Secretary Robert Strauss, Jeffrey Greene; David Keller and George Keller. Also present: Executive Director Christine Bailey; Keith Reynolds and Felicia Ewell of Segal Marco; and Ron Cohen of Lorium Law.

A. August 27, 2024 Regular Board Meeting Agenda

MOTION made by Trustee D. Keller, seconded by Trustee Greene, to adopt the August 27, 2024 Regular Board Meeting Agenda. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

3. CONSENT AGENDA

- A. July 30, 2024 Regular Meeting Minutes
- B. Ratification of Distributions (Contributions and DROP) and Plan Expenses
- C. Approval/Ratification of New Retirements/DROP/Vested/Death Annuities

MOTION made by Trustee D. Keller, seconded by Trustee Greene, to approve Consent Agenda Items 3a through 3c. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

4. FINANCIAL

A. Financial Reports and Investment Summary

Ms. Bailey provided the Board with the Preliminary July 2024 Financial Report and Investment Summaries. She also provided the Budget Variance Report as of July 31, 2024.

5. INVESTMENT (Keith Reynolds – Segal Marco)

A. June 2024 Flash Performance Report

Mr. Reynolds provided the Board with the Flash Performance Report for June 2024. He noted that the Fund's market value of assets as of May 31, 2024 increased to \$463.7 million. He also noted that the estimated return for the Fund was up 1.2% net of fees for the quarter ended June 30, 2024 and up 12.2% net of fees for the fiscal year to date.

In response to a question from Mr. Strauss, Mr. Reynolds noted that the primary reason for the Fund underperforming the policy index was due to the Private Equity investments holding assets due to the current market environment.

B. Presentation by Wellington International

Ms. Nicole Tetreault and Mr. Varun Bhandari of Wellington International provided the Board with an update of the Fund's International Equity Investment with Wellington. Mr. Bhandari informed the Board of organizational changes in the investment team. He also reviewed the investments in the portfolio.

C. Presentation by RBC Emerging Markets

Ms. Alex Eckles and Ms. Allissa Howard provided the Board with an update of the Fund's RBC Emerging Market Equity Fund. They reviewed their investment process, the characteristics of the portfolio, and the performance activity of the investment.

In response to a question, Ms. Howard advised that the RBC Fund had not owned any investments in Russia since 2018.

- D. 2024 Work Plan
Mr. Reynolds reviewed the 2024 Work Plan.

6. LEGAL (Ron Cohen – Lorium Law)

A. Legal Update

Mr. Cohen advised that he had reviewed the Oklahoma court case that temporarily prohibited Oklahoma from enforcing its ESG Statute and prepared a written summary of the case. He also advised that he had reviewed a U.S. Supreme Court case that Trustee Strauss had asked about and stated that he would report on the case as well.

Mr. Cohen noted that the Oklahoma case was a trial court case and that the injunction was a temporary action. He advised that the case related to the Oklahoma Public Employee Retirement System, and the injunction prohibited the enforcement of the Oklahoma Energy Discrimination Elimination Act of 2022. He stated that there were different reasons for the decision, but one important one had to do with the exclusive benefit rule.

Mr. Cohen stated that the exclusive benefit rule applied to all tax qualified governmental retirement plans and that it required all Boards of Trustees to discharge their duties solely in the interests of the participants and their beneficiaries, for the exclusive purpose of providing benefits to participants and beneficiaries and to defray the reasonable expenses of running the plan. He noted that the exclusive benefit rule was placed in the Oklahoma Constitution, and the Court found that one of the purposes of the Oklahoma Energy Discrimination Elimination Act of 2022 was to assist the economic status of the oil and gas sector, and that doing so violated the exclusive benefit rule.

Mr. Cohen again stated that the ruling was temporary, and the trial judge might change her ruling as the case progressed. He advised that the temporary ruling was also on appeal.

Mr. Cohen also reviewed the details of a free speech case decided by the U.S. Supreme Court Case involving the NRA and New York State. He noted that in this recent case, New York State, that regulated insurance companies and the regulators, had a policy in favor of gun control. He stated that the NRA offered a number of private insurance policies to its members and that state regulated insurance companies that insured the NRA. He stated that the insurance regulators found that some of the insurance companies had committed some violations of New York Insurance law and that under pressure from NY State, some of the insurance companies agreed to discontinue their arrangements with the NRA in offering insurance policies to NRA members.

Mr. Cohen advised that the U.S. Supreme Court found that "While a government official can share her views freely and criticize particular beliefs in the hopes of persuading others, she may not use the power of her office to punish or suppress disfavored expression," and ruled in favor of the NRA.

Mr. Cohen stated that a free speech claim was also raised in the Oklahoma case, but the Court declined to rule on it.

B. Request for Executive Session to Discuss Pending Litigation

Mr. Cohen requested an Executive Session to discuss the pending lawsuit Virginia Tisdale-Ferguson v. Blanche T. Pressley and the Board of Trustees of the City of Hollywood Employees' Retirement Fund.

The Board discussed the timing and details of the Tisdale-Ferguson case and the competency hearing for a retiree.

7. EXECUTIVE DIRECTOR'S REPORT

A. City Commission Communication

The Board received the City Commission Communication.

Trustee Shaw advised the Board that she had been asked to take part in the FPPTA Leadership Training Program, a three-part program taking place in September 2024 at the Fall Trustee School, January 2025 at the Winter Trustee School, and April 2025 at a special session in St. Augustine, Florida.

MOTION made by Trustee D. Keller, seconded by Trustee Greene, that the Chair is approved to attend the conference in St. Augustine and be appropriately reimbursed for it. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

B. Election Request and Proposed Timeline PO-2024-14

Ms. Bailey provided a likely timeline for an COHERF election on proposed ordinance PO-2024-14. She advised that the Plan's Policy on Approval of Retirement Plan Amendments stated that the Plan's election would be conducted after the final draft of the ordinance was completed and the AFSCME members must have ratified their contract before the election process would start. She advised that, with this proposed ordinance, there were no contract changes being ratified, and although the Union had voted on the question, it was not a contract ratification. She advised that the City had requested that the Fund proceed with the proposed ordinance PO-2024-14 election.

Trustee D. Keller stated that the City had requested that the vote on the proposed ordinance be conducted, independent of the union vote and independent of its outcome. He noted that the vote the union conducted was to support or not to support the proposed ordinance amendment and that it was not a collective bargaining ratification. He noted that the two current City employees that would be impacted by the proposed ordinance were not part of the collective bargaining agreements and not part of that Union's membership. He advised that he spoke with the Union President who he said anticipated a COHERF membership vote independent of the Union vote.

Trustee D. Keller advised that after discussion with Ms. Bailey and Mr. Cohen, on whether a vote of the union was needed, it was determined that the union vote was not a contract ratification vote, and therefore our approval policy did not address this situation. He noted that the passage of the ordinance only required votes by the City Commission and the COHERF membership.

Mr. Cohen confirmed that he had spoken with Trustee D. Keller and Ms. Bailey on this issue but he had not discussed it with the City's Attorney. He noted that the policy on plan amendments assumed that there would be a contract to be ratified. He noted that the vote that was put out was not a vote on a collective bargaining agreement, it was a vote on the change to the ordinance. He noted that the wording of the Plan did not, on its own, require a vote of the members of the collective bargaining unit.

Mr. Cohen explained his position that benefits for collective bargaining unit members were considered mandatory subjects of bargaining, and terms and conditions of employment, that cannot be changed absent collective bargaining. He noted that this proposed ordinance did not particularly affect, or might not affect at all, any of the members of the bargaining unit, only people who were outside of the bargaining unit, so he had doubts that it would be improper for the City to change the terms of the Plan that didn't directly affect the bargaining unit members, that did not involve their terms and conditions of employment. He noted that while this was not a final opinion, he did not believe that the Board would want to take a position on that issue, as it was between the City and Union.

Mr. Cohen stated that the question at hand was whether the Board could hold a vote and he advised that the Board could, because if there was a change to the terms and conditions of employment of somebody who was not a member of the collective bargaining unit that is governed by the Plan and it required a union vote, it could never be changed. He noted that he had not discussed his opinion with the Union. He noted that if the change was adopted, and the Union thought it was a violation of its collective bargaining agreement, they could seek legal remedies.

MOTION made by Trustee G. Keller, seconded by Trustee D. Keller, to extend the meeting to 1:00p.m. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

The Trustees discussed the history of the Policy on Approval of Retirement Plan Amendments, and how to proceed with the ordinance voting process. In response to a question from Trustee Strauss, Mr. Cohen advised that he did not believe that a vote on this proposed ordinance in this instance would serve as any precedent for the idea that, if there were changes to the terms and conditions of employment of bargaining union members that include pensioners, those terms and conditions did not have to be ratified before an ordinance change affecting terms and conditions went into effect.

In response to a question from Trustee Armand regarding a change that increased the cost to the Plan but did not affect benefits, Mr. Cohen stated that in such a case the Union could request impact bargaining, but that would be a decision for the City and the Union, and not the Plan.

Trustee Armand states that because she was not 100% sure that this action would not be precedent setting, and this was new and we had never been through this before, she was concerned.

MOTION made by Trustee Greene, seconded by Trustee D. Keller, to move forward with the vote. In a roll call vote of the members present, the **Motion** passed 4-1-0. Trustee Armand opposed the motion. Trustee G. Keller abstained (See Form 8B attached).

Trustee Strauss requested that the timeline be updated to include the dates that mail-in ballots are due from retirees. The Board requested that the communications regarding the election include a summary of the purpose of the proposed ordinance.

MOTION made by Trustee D. Keller, seconded by Trustee G. Keller, to extend the meeting to 1:15 p.m. In a voice vote of the members present, all members voted in favor. **Motion** passed 6-0.

C. Communications from the Executive Director

- Ms. Bailey advised that the testing of the Member Self Service Portal was expected to be available to the membership in September, beginning on September 11th with the Active members and the DROP participants,
- Ms. Bailey advised that there was a setback with the Pension Office Renovation with a leak from the Building into the Pension Office which caused some damage. She noted that the space had been cleared but that some flooring and drywall would need to be replaced.

Ms. Bailey also advised that IT had provided temporary internet access which would allow the finalization of building access and audiovisual setup.

- Ms. Bailey advised that the Employee Benefits Statements for Fiscal Year 2023 were available and would be distributed shortly.
- Ms. Bailey provided the Board with the DROP Participant List.

8. **PUBLIC COMMENTS**

There were no public comments.

9. TRUSTEE REPORTS, QUESTIONS AND COMMENTS

Trustee G. Keller provided information on the Fire Pension Board for the Board's information.

10. ADJOURNMENT

MOTION made by Trustee Greene, seconded by Trustee G. Keller, to adjourn the meeting. In a voice vote by the members present, **Motion** passed 6-0. The meeting adjourned at 1:10p.m.



Phyllis Shaw, Chair

Sept 17, 2024

Date