

**The City of Mobile, Alabama
Police and Firefighters Retirement Plan
Regular Meeting
January 23, 2013**

The Board of Trustees for The City of Mobile, Alabama Police and Firefighters Retirement Plan met in regular session at 9:00 a.m. on Wednesday, January 23, 2013 in the City Council Pre-Conference room on the first floor of the south tower in Government Plaza.

Present:

Retired Fire Service Captain Terry Lilley, Vice-Chairman
Fire Service Captain Bo McLarty
Ms. Barbara Malkove
Police Lieutenant Roy Hodge
Mr. Joe Connick
Fire Service Captain James Connick
Mr. Michael Druhan
Ms. Wanda Cochran, Counsel
Ms. Mary Berg, Secretary
Ms. Debbie Blackburn, Office Assistant III

Absent:

Deputy Police Chief James Barber
Ms. Joyce Collier

Guests:

Fire Service Captain Bryan Lee, Mobile Fire Department
Mr. Bob Hubbard, Gray & Co.
Fire Service Driver Dwayne Patrick, Mobile Fire Department
Firefighter Scott Haney, Mobile Fire Department
Jeff Perloff, Attorney for Edward Lyons

The vice-chairman, Mr. Terry Lilley, called the meeting to order at 9:00 a.m.

The vice-chairman presented the **minutes of the regular Board meetings of November 14, 2012 and December 19, 2012.** *On a motion by Mr. Druhan and seconded by Lieutenant Hodge, the minutes were approved as written and distributed.*

The vice-chairman presented a Personnel Action Notice of DROP retirement effective February 1, 2013 submitted by **Fire Service Drive Paul E. Platt, Jr., Mobile Fire Department.** As of January 31, 2013 Driver Platt will be 55 years of age and will have served 22.61 years. He has elected the 100% joint and survivor annuity option with the "pop-up" feature. *Captain Connick motioned for approval, Captain McLarty seconded the motion, and the motion carried.*

The vice-chairman presented a Personnel Action Notice of **Police Sergeant Darron K. Williams, Mobile Police Department,** of his intent to leave the Police Department and withdraw from the DROP to enter active retirement, effective January 26, 2013. *Lieutenant Hodge motioned for approval, seconded by Captain Connick, the motion carried.*

The vice-chairman presented items 5 through 7 on the agenda for approval. *On a motion by Captain Connick, seconded by Lieutenant Hodge, the Board approved the following:*

Invoice No. 005391 dated December 28, 2012 in the amount of \$5,208.33 submitted by Gray & Company for investment performance analysis for December 2012;

Invoice dated January 1, 2013 in the amount of \$22,459.58 submitted by Century Capital Management LLC, for professional equity investment services for the quarter ending December 31, 2012; and

Payment in the amount of \$1,066.00 to DLJ Real Estate for professional real estate management fees for the period July 1, 2012 through December 31, 2012.

The secretary provided each Board member with a list of the **requests for refund**. *On a motion by Captain Connick, seconded by Lieutenant Hodge, the Board approved refunds totaling \$52,601.46 as follows:*

<i>Raymond Chaney, II</i>	<i>MFD</i>	<i>\$14,533.85</i>
<i>Mark A. Eubanks</i>	<i>MPD</i>	<i>5,388.33</i>
<i>Ryan A. Hill</i>	<i>MPD</i>	<i>30,200.26</i>
<i>Joshua L. Kendall</i>	<i>MFD</i>	<i>2,479.02</i>
<i>Total Refunds</i>		<i>\$52,601.46</i>

The vice-chairman acknowledged the consultant, Mr. Bob Hubbard, and turned the meeting over to him. Mr. Hubbard went over the Flash Report as of December 31, 2012. Mr. Hubbard again presented the idea of splitting the smid cap asset allocation between a small cap and mid cap allocation. He also discussed the advantages and risks of changing solely to an index fund for a mid-cap allocation. *Captain Connick motioned to create a mid-cap allocation and move it to an index fund; the motion was seconded by Captain McLarty. The motion and second were withdrawn. Captain Connick’s restated motion was to eliminate the smid cap allocation, and create a small cap and mid-cap allocation, and place the mid-cap allocation into an index fund. The restated motion was seconded by Captain McLarty, and the motion carried.*

Mr. Hubbard asked the Board if the members wanted him to set up presentation from small cap money managers. *On a motion by Captain Connick to have representatives from Southern Sun Asset Management, G W Capital Inc., and Morgan-Dempsey Capital Management, LLC make presentations at the next meeting. Lieutenant Hodge seconded the motion, and it carried.*

Unfinished business:

- Ms. Cochran presented the following resolution amending Article 7 of the Restated and Amended Plan regarding procedures for election of Board members. *Captain Connick moved to approve the resolution, the motion was seconded by Captain McLarty, and the motion carried.*

RESOLUTION AMENDING ARTICLE 7 OF THE AMENDED AND RESTATED PLAN TO PROVIDE FOR PROCEDURES FOR THE ELECTION OF UNIFORMED OFFICERS TO THE BOARD

Whereas, Article 7 of Act 97-689, 1997 *Alabama Acts* 1395, designated the Board as the administrative authority for the retirement plan established for the benefit of the police officers and firefighters for the City of Mobile, AL (the “Plan”);

Whereas, pursuant to that authority the Board adopted an Amended and Restated Plan on March 23, 2011 which was approved by the City Council on July 3, 2012;

Whereas, the Board has determined that the election procedures set forth in Article 7 be amended as set forth below:

NOW, THEREFORE, BE IT RESOLVED by the City of Mobile Police and Firefighters' Retirement Plan Board:

1. That Article 7, section 7.02 is hereby amended as follows:

“7.02 Elections.

All elections of uniformed officers to the board shall be by secret ballot and shall be administered by the city clerk. Election shall be held no more than 6 weeks and no less than 2 weeks prior to the expiration date for the term of any elected member of the board, as the city clerk shall determine. Ballot shall be distributed, along with the uniformed officer's salary warrants and the election shall be conducted in accordance with such other rules as the city clerk deems necessary to ensure a fair and honest election. In the event elections are delayed, the term of the incumbent board member shall expire on schedule and the position on the board shall remain vacant until election is held to fill the vacant position.

2. This Resolution shall be effective on and after its adoption.

Done this 23rd day of January, 2013

James Barber, Chairman

ATTEST: _____
Mary Berg, Executive Secretary

- Ms. Cochran presented the following resolution to correct an omission from the Amended and Restated Plan that was approved by the City Council on July 3, 2012. *Captain Connick moved to approve the resolution, with a second from Captain McLarty, the motion carried.*

**RESOLUTION CORRECTING ARTICLE 9
OF THE AMENDED AND RESTATED PLAN**

Whereas, Article 7 of Act 97-689, 1997 *Alabama Acts* 1395, designates the Board as the administrative authority for the retirement plan established for the benefit of the police officers and firefighters for the City of Mobile, Alabama (the “Plan”);

Whereas, pursuant to that authority the Board adopted an Amended and Restated Plan on March 23, 2011 which was approved by the City Council on July 3, 2012;

Whereas, the Board has determined that a section was in advertently omitted from the Amended and Restated Plan and wished to correct same;

NOW, THEREFORE, BE IT RESOLVED by the City of Mobile Police and Firefighters' Retirement Plan Board:

1. That Article 9 of the Plan is hereby amended to add a new section 9.03 as follows:

9.03 Limitation Concerning Highly Compensated Employees or Highly Compensated Former Employees.

(a) The provisions of this section shall apply (i) in the event the plan is terminated, to any member who is a highly compensated employee of the city and (ii) in any other event, to any member who is one of the 25 highly compensated employees of the city with the greatest compensation in any plan year. The amount of the annual payments to any one of the members to whom this section applies shall not be greater than an amount equal to the annual payments that would be made on behalf of the member during the year under a single life annuity that is of equivalent actuarial value to the member's benefit.

(b) If, (i) after payment of the benefit to any one of the members to whom this section applies, the value of plan assets equals or exceeds 110 percent of the value of current liabilities, as that term is defined in Section 412(1)(7) of the Code, of the plan, (II) the value of the benefit of any one of the members to whom this section applies is less than one percent of the value of current liabilities of the plan, or (iii) the value of the benefit payable to a member to whom this section applies does not exceed three thousand five hundred dollars (\$3,500), the provisions of paragraph (a) above will not be applicable to the payment of benefits to such member.

(c) Notwithstanding paragraph (a) of this section, in the event the plan is terminated, the restrictions of this section shall not be applicable if the benefit payable to any highly compensated employee is limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the Code.

(d) If it should subsequently be determined by statute, court decision acquiesced in by the Commissioner of Internal Revenue, or ruling by the Commissioner of Internal Revenue, that the provisions of this section are no longer necessary to qualify the plan under the Code, this section shall be ineffective without the necessity of further amendment to the plan.”

2. This Resolution shall be effective retroactive to July 3, 2013.

Done this 23rd day of January, 2013

James Barber, Chairman

ATTEST: _____
Mary Berg, Executive Secretary

New business:

- Captain Connick brought up a “lapse” in Personnel Board rules regarding the re-hire lists, and individuals’ efforts to return to work after being on a disability retirement. He expressed his wish to have representatives from the Board meet with someone from the Personnel Board. *Captain Connick moved to have the Board chairman set up a committee to meet with Personnel Board representatives within the month. Ms. Malkove seconded the motion, and the motion carried.*
- *Mr. Connick moved to reconsider removing Mr. Edward Lyons from disability retirement. The motion was seconded by Captain Connick. With a vote of 1 for the motion (Mr. Connick), and 4 against, the motion failed.*

- There was discussion of implementing a “Bridge Law”. This would provide for benefits to continue from the time a Plan member was removed from a disability retirement to being re-hired by respective department. *Captain McLarty motioned for Ms. Cochran to draft a “Bridge Law”, and present it at the next Board meeting. The motion was seconded by Captain Connick. On a vote of 2 for the motion (Captain McLarty and Mr. Connick), and 3 against, the motion failed.*

There being no further business to come before the Board, on a motion by Captain Connick, and seconded by Ms. Malkove, the meeting adjourned at approximately 10:15 a.m.

James H. Barber, Chairman

Mary A. Berg, Secretary