

CORAL GABLES RETIREMENT SYSTEM

Minutes of May 14, 2009
Youth Center – Auditorium
405 University Drive
8:00 a.m.

MEMBERS:

M J J A S O N D J F M A M

APPOINTED BY:

Steven Naclerio	P P - P P P E P P P P P P	Mayor Donald D. Slesnick, II
Manuel A. Garcia-Linares	E P - P P P P P P P P P	Vice Mayor William H. Kerdyk, Jr.
Tom Huston, Jr.	E P - P P P P P P E P P	Commissioner Maria Anderson
Sal Geraci	P P - P E P P P P E P P	Commissioner Rafael “Ralph” Cabrera
Leslie Space	E P - P P P E P P P P P	Commissioner Wayne “Chip” Withers
Agustin Diaz	P E - P P P E P P P E P	Police Representative
Troy Easley	P P - P P P P P P P P P	Member at Large
Victor Goizueta	P P - P P P P P P P P P	General Employees
Wayne Sibley	P P - E P P P P P A P E	Fire Representative

STAFF:

Kimberly Groome, Administrative Manager
Alan Greenfield, Board Attorney
Donald G. Nelson, Finance Director
Troy Brown, The Bogdahn Group
Dave West, The Bogdahn Group

A = Absent

E = Excused Absent

P = Present

GUESTS:

Marjorie Adler, Human Resources Director
David Miller, Bryant, Miller, Olive
Scott Eichorn, Fowler White
Brett Friedman, McGladrey & Pullen
Richard Naue, Coral Gables Police Officer Retirement Trust Fund
J. Baublitz, FOP
R. Hoff, FOP
Curtis Carlson, Carlson & Lewittes

Chairperson Tom Huston calls the meeting to order at 8:09 a.m. Mr. Diaz and Mr. Sibley were not present. There was a quorum present.

1. Roll call.
2. Discussion of the Settlement Agreement and General Release of Raul Piñon which was approved by the City Commission April 24, 2009. (*Agenda Item 8*).

Mr. Greenfield informs that the Piñon issue was discussed by the Commission at their meeting of April 28th and the settlement that was reached between the City and Mr. Piñon was approved by the Commission. David Miller, attorney for the City, reports that the Agreement spells out the payments and actions the City and Retirement Board must take. All deadlines are keyed to the effective date of the Agreement. That date is 8 days after the signature of the last-signing party. It appears at this time that the Board will be the last-signing party. The City must pay \$215,000 to Piñon. The City must pay Piñon, but withhold from payment, a sum equal to the amount he would have contributed to the Retirement System had he not been in the DROP. That sum should be calculated by the Plan's actuary. It has previously been calculated as \$12,069.02. The City and Board must take whatever administrative and/or other actions are necessary to recalculate Piñon's retirement benefit as if he had not entered DROP but had instead retired on June 30, 2007. The benefit amount has previously been calculated as \$1,776.23. It should be recalculated and recertified by the Plan's actuary. This monthly amount must be paid retroactive to June 30, 2007. As a part of this calculation, the value of Mr. Piñon's DROP account is to be forfeited to the plan. The amount of \$215,000 going to Piñon is an undivided payment in settlement of his claims against the City and the Board. The part the Board is concerned with is the adjustment of his retirement benefit which involves the approximate \$80,000 forfeiture of the DROP account, the City's contribution on Mr. Piñon's behalf which is approximately \$12,000 that represents his contributions and it involves the City's adjustment of his monthly retirement benefit of approximately \$1,700.00.

At this time Mr. Diaz arrives.

A motion was made by Mr. Naclerio and seconded by Mr. Garcia-Linares to accept the settlement on the condition that the Retirement System is funded by the City prior to any additional payments being made to Mr. Piñon as certified by the actuary.

Discussion:

Mr. Geraci is concerned going forward with this settlement. Will this end everything with the Piñon matter? Have all Board members been released in case Mr. Piñon decides that he has other claims against individuals with the Board as a whole? Mr. Miller answers affirmatively. This is a global release to all possible claims up through the date of settlement that Mr. Piñon may have against the City and the Board. There is language in the agreement that releases everyone individually in their official and their personal capacities.

Mr. Space states that there was about \$78,000 that Mr. Piñon was supposed to get from the fund for his DROP. He was also going to get a monthly retirement income. How much was that monthly amount? Mr. Miller responds that it was approximately \$500.00. Mr. Space points out that they have the \$78,000 that the fund will not pay out; they have the \$12,000 coming in from the City to the fund and about \$1200 a month going out. What he is concerned is that once the \$1200 gets up higher than \$78,000 plus \$12,000 then fund goes negative.

Mr. Nelson informs that when they get the final numbers they will bring those numbers to the Board and that way they will know how much the City is required to fund. There are a lot of components; the difference between the \$500 and the \$1700 monthly going forward for the rest of Mr. Piñon's life actuarially determined back to present value; there is \$78,000 that will stay within the retirement fund and then there is the \$12,000 employee contribution payment that the City is paying on Mr. Piñon's behalf. All of that will be calculated and brought back to the Board. Then they will tell the Board when the City will be funding that \$12,000 with the priority that it will be funded by the end of this fiscal year even though it is an unfunded amount.

Mr. Naclerio indicates that his motion will be that the Retirement System not pay out anything until that \$12,000 is funded back to the plan. Mr. Miller informs that the Settlement Agreement states that Mr. Piñon will begin to receive his recalculated monthly retirement benefit on the first month after the effective date of this agreement or as soon as practicable thereafter which contemplates ministerial actions by the actuary. If the Board wishes to impose this additional condition that the fund will not pay Mr. Piñon until the fund gets money from the City then it is potentially contrary to what the settlement says. The agreement would have to be renegotiated with the plaintiff and in his judgment they would not agree to it. Mr. Naclerio states that it is his judgment that the City can make a payment on account also until they get all the final figures so the fund is not in the red. If the City would like the Board to honor the settlement that was made then the City needs to make the payment so the fund is not in the red while they are figuring out the amount to Piñon. Mr. Nelson informs that the request is they comply with the settlement agreement, revise Mr. Piñon's monthly payment on June 1st, receive all the figures from the actuary, bring them back to the retirement Board and then he will explain to the Board how the City will fund the \$12,000.

Mr. Garcia-Linares comments that Mr. Miller informed the Board that payment is 30 days after the effective date. The Board has not signed on behalf of the retirement system yet so the effective period has not started. Today is the 14th of June. He doesn't understand why they are making a payment on June 1st. He thinks they have plenty of time for the actuary to finish his calculation. They have another meeting in June and the Board should have the actuary's calculation by then. That is within that 30 day period before making any payment to Mr. Piñon. At that time the Board will have the certified amount to pay Mr. Piñon and the City can contribute the money to the fund and Mr. Piñon can receive his money within the 30 day period. Mr. Miller informs that Mr. Nelson has stated that it is his preference that this amount will be funded within the fiscal year at a minimum. Mr. Naclerio doesn't want to wait until the fiscal year. If they want the Board to start paying Mr. Piñon his money, which is a difference between \$500 and \$1700, then the City is going to have to write the Retirement System a check for \$12,000. If they want the Board to keep funding an additional benefit that is not supposed to cost them anything then the City needs to fund it otherwise he is not in favor of the settlement.

Mr. Garcia-Linares thinks they need to defer the approval of the settlement until the Board has the figures from the actuary. Mr. Miller states that it is his judgment as the attorney for the City that if they defer this for a month it is going to cause great problems

for the plaintiff and it potentially can cause the deal to fall apart. This is a good settlement in his judgment. Mr. Naclerio asks if they would rather that the Board defer it for 30 days or would they rather wait for the funding until they get the money from the City. Mr. Miller responds that the City's preference would be to approve the settlement today and that the funding details be worked out between the City and Board later. He understands the Board's worries and he thinks Mr. Nelson has spoken to them.

Mr. Geraci asks for Mr. Greenfield's opinion. Mr. Greenfield informs that he is happy with the settlement and thinks this case should be settled. He thinks that Mr. Garcia-Linares' suggestion to defer the ultimate resolution until they get the information from the actuary makes sense. If the City believes the settlement is going to be in jeopardy because the plaintiff will be somewhat disturbed the City can go ahead and pay those portions to him that he is entitled to under the settlement agreement leaving open only the matter dealing with the monthly benefit that he is supposed to get which will come later. The City can pay all the attorneys fees and settlement fees now.

Mr. Goizueta states that there is a second amount that comes after the \$12,000 that the actuary has to calculate. Can the actuary come back and say the City has to pay more than the \$12,000 that was figured when they do their calculation of Mr. Piñon's employee contribution amount? Mr. Miller informs that the actuary is going to recalculate the \$12,000 before it is due and before there is any payment to Piñon. Mr. Garcia-Linares asks if they have an idea of what the number will be. Mr. Miller thinks they have the right number because the actuary calculated it before.

The motion was restated with amendments.

A motion was made by Mr. Naclerio and seconded by Mr. Garcia-Linares to accept the settlement with the condition that the Retirement System does not pay out Mr. Piñon's new monthly benefit until the actuary checks the calculation and that the City pays the \$12,000.00 as stated in paragraph 2E of the settlement agreement. Motion unanimously approved (8-0).

3. Items from the Board attorney. (*Agenda Item 3*).
Mr. Greenfield reports that at the last session they had a shade session and the public session thereafter. There was some discussion at the end of the meeting relative to the financial calculations that had been presented to the Board by Mr. Carlson relative to the total amount of his fee and the ultimate amount that would be going to the Board as part of the settlement. He doesn't think there was any adverse discussion relative to the fact that the settlement figure with UBS was \$2,550,000 rather it was a matter of how that \$2,550,000 was going to be divided or presented to the Board for the Board's approval. There was some discussion at the end of the meeting as to whether or not the calculation that Mr. Carlson had made and presented to the Board was correct. There seemed to be a difference relative to whether or not there was going to be a fee charged on the \$50,000 and 30% of \$50,000 would be a \$15,000 fee. Mr. Carlson had told the Board that he believed he was entitled to collect that \$15,000 and that was included in the calculation the Board was given. Then Mr. Nelson felt that he had an understanding that was not

going to be charged to the Board. He had a conference call between Mr. Nelson and Mr. Carlson to discuss the entire matter and thereafter he sent the Board the result of that conference call. In his opinion both Mr. Carlson and Mr. Nelson were acting in good faith but there was an honest misunderstanding between them. In order to get it resolved Mr. Carlson was willing to reduce his fee by \$7,500 and Mr. Nelson was willing to accept that \$7,500 and forgo the other \$7,500. The Board was notified and they are here today to consider the finality of the UBS settlement as to whether the Board wants to settle or not and the matter as to how the \$2,550,000 is going to be divided and paid to the Board.

Mr. Garcia-Linares informs that he had four questions that he asked of Mr. Greenfield and he doesn't think they were addressed. The first issue was the issue of the release. After reading the agreement he asked Mr. Greenfield to inquire as to whether or not they could obtain releases for all current and past Board members without the requirement that the individual Board members have to sign releases to UBS so they don't have to be going out and tracking down past Board members. Mr. Greenfield informs that he forwarded Mr. Garcia-Linares' request to Mr. Carlson and Mr. Carlson suggested the request be sent to Ms. Soto. He sent the request to Ms. Soto and she has not responded as of today. Mr. Garcia-Linares states that the second issue is about communications with the media. They took out the \$50,000 limitation and now it is unlimited. If someone the Board has no control over says something about this settlement to the media the Board can be liable to UBS for damages. He is not in agreement with that section of the settlement. He asked for Mr. Greenfield to consult with Mr. Carlson about that also. Mr. Greenfield informs he did the same with that issue as the previous one and sent it on to Ms. Soto. He has not received a response from her regarding that issue. Mr. Garcia-Linares asks Ms. Groome how much has the Board spent in costs in pursuing this case. Ms. Groome responds that currently it is \$146,000. Mr. Garcia-Linares informs that he asked Mr. Greenfield and Mr. Carlson to let the Board know how much in additional moneys the Board will have to pay in attorney fees for Mr. Greenfield and costs for Mr. Carlson before this is settled. The Board is entitled to know.

Mr. Naclerio points out that according to the rules in order to reconsider what they voted for on May 5th a person who can make that motion is someone who voted in favor of the approved motion. He is not one of those who voted for that motion so he cannot make the motion to reconsider however he asks for one of his colleagues who did vote for it to move to reconsider it for many reasons. One of the main reasons is that at the last meeting they were given a sheet that did not account for any of the costs that they have paid and are coming. He thinks that as a fiduciary in approving a settlement they need to have in front of them the actual net of recovery. Mr. Greenfield explains that there was a motion made and approved by the Board on May 5th. He brought up this morning the matters he was asked to talk about but it doesn't change the motion until there is a motion for reconsideration.

Mr. Garcia-Linares states that what they approved was presented to the Board on a term sheet which was subject to be drafted into a final settlement agreement. They have the final settlement agreement and the issues he is raising relate to that final settlement

agreement and that agreement has not been approved by this Board. Mr. Greenfield informs that there is a motion by this Board that passed on May 5th so in order to change that motion someone who is on the prevailing side of that motion would have to ask to reconsider. Mr. Garcia-Linares agrees but as to the specific terms of the agreement which has been submitted to the Board for approval today they have to approve this settlement agreement document. The issues he has raised relate to this document, not to what the Board did at the May 5th meeting. Mr. Naclerio has raised an issue that deals with the last meeting and as to those issues someone would have to reconsider but as to this document that is before the Board at this meeting refers to the first two points he just raised. As to the second two points he thinks before the Board approves the agreement they need to know what additional costs they have from Mr. Greenfield and what additional costs they have from Mr. Carlson so they know what they have to pay when this is all done. Mr. Naclerio agrees. In order to approve the settlement he thinks they have to know the amount they are going to receive after all costs. Mr. Greenfield explains that UBS has reached a point where they said if you want to settlement it is "x" number of dollars otherwise there is no settlement. If there is a dispute about the costs and fees that really doesn't impact UBS. Now, Mr. Garcia-Linares has raised some issues regarding the settlement agreement that has been presented to the Board at this meeting. Those questions have been brought to the attention of Mr. Carlson and Ms. Soto and they do not have an answer to those questions. It has nothing to do with the \$2,550,000 and UBS has no part in saying how that money will be divided. He thinks they need to focus in on the fact that they should have a settlement with UBS and they are entitled to get answers to the questions raised by Mr. Garcia-Linares.

Mr. Naclerio asks if any Board member wants to reconsider the motion they made on May 5th. They don't have to change their vote but it just seems to him as a fiduciary he would like to know the amount of money coming to the fund and he can't figure that out from what was presented to him. Mr. Greenfield comments that information is not a problem of UBS. Mr. Naclerio agrees. It is his problem. He is the fiduciary and he has been asked to approve a settlement as a fiduciary and he wants to know the amount coming to the fund and if that fair to the fund. If it is not fair to UBS then he doesn't approve the settlement and they go on and litigate or they get a new settlement. He wants the Board to know the final net number and then they can decide whether they want to approve it or not. Mr. Garcia-Linares thinks that where they are at now is they need to ask if someone who voted for the motion wants to reconsider. If no one wants to reconsider then they move on with the meeting.

Chairperson Huston asks if any Board member who voted for the motion wants to reconsider. Since there was no Board member who wanted to reconsider the motion the previous discussion is closed.

Chairperson Huston moves on to the two questions that were still open. One is the general release for the Board. He asks if anyone has read the release and had a problem with it. Mr. Garcia-Linares informs that he read it and has already raised two issues. Chairperson Huston asks what those issues were. Mr. Garcia-Linares doesn't believe that they want to put it as a burden on their former Board members or even themselves to

have to sign an individual release to UBS. He thinks UBS should give them a blanket release for all former and current Board members. Chairperson Huston asks if UBS doesn't agree to do that would Mr. Garcia-Linares have a problem with signing the individual release. Mr. Garcia-Linares doesn't have a problem but he does have a problem with the Board having to spend money for Mr. Greenfield to contact all past Board members to get them to agree to sign an individual release and he doesn't believe that is the right thing to do. Chairperson Huston asks how difficult will it be to get the individual releases signed. Mr. Greenfield informs that they have the addresses and all they have to do is send out a letter with the release. Chairperson Huston doesn't see it as that much of a burden.

Mr. Garcia-Linares states that the second issue he brought up is communication with the media. If anyone says anything to the media the Board is open. Chairperson Huston thinks that the media will probably pick up about what this is about. If an article appears in the Coral Gables Gazette will that violate the agreement even though the information did not come from one of the Board members? Mr. Greenfield informs that the agreement says that the Board members would have to be very circumspect to the media and would have to say that the matter was settled and that is it. Mr. Garcia-Linares believes that the way the settlement was worded previously it stated that if anyone commented about this settlement then the \$50,000 paid to the retirement system would go back to UBS. The Board took out that condition and now the amount is blank so potentially if a commissioner or a City employee says something to the media about this settlement the retirement system could be held liable for an amount. He is just raising the issue.

Mr. Carlson doesn't read the settlement agreement as Mr. Garcia-Linares does. It says in paragraph V: "CGRS, the City of Coral Gables, Donald G. Nelson, Kimberly Groome, Curtis Carlson, Elizabeth Hernandez, Alan E. Greenfield and any person or entity that receives release from UBSFS pursuant to this agreement agree that in any communications with the print, broadcast or electronic media solicited or unsolicited there only statement to the media will be..." and then there is a quoted statement. It is an agreement by each person individually. It does not say that everybody collectively will be liable if someone breaches it, it says that each person agrees that they will give that statement to the media. It goes on to say that it is a material provision and that UBS would be able to bring an action if there is a breach. He doesn't think there will be a problem with getting a clarification of it.

A motion was made by Mr. Diaz and seconded by Mr. Easley to approve the form of the settlement as written with the clarification that the retirement system will not be liable if someone issues a statement that is not listed in paragraph V of the settlement.

Discussion:

Mr. Garcia-Linares wants to know how much the Retirement system owes Mr. Greenfield and Mr. Carlson and any experts in fees. This is a concern he has. Mr. Geraci asks Mr. Garcia-Linares if his concern affects this vote. Mr. Naclerio believes it does because as a

fiduciary before you approve anything regarding any settlement you should exactly know the net financial terms of the agreement. He is going to vote against this motion until he knows all the numbers. Mr. Garcia-Linares points out that once this is done it is done.

Vote:

Mr. Diaz – Yes

Mr. Easley – Yes

Mr. Garcia-Linares – No

Mr. Geraci – Yes

Mr. Goizueta – No

Mr. Huston – Yes

Mr. Naclerio – No

Mr. Space – Yes

Motion approved (5-3).

Mr. Carlson comments that it has been a long journey for them that began in February 2005 and he thanks the Board for the support that it has given so they were able to arrive at the conclusion they arrived at today. It has been an honor to represent the Coral Gables Retirement System. Mr. Naclerio has appreciated Mr. Carlson's efforts for the last five years and the Board is certainly happy the matter has been concluded.

Chairperson Huston states that at the last meeting it was brought up that there may be a potential lawsuit against Merrill Lynch. He asks for Mr. Greenfield to find out if there is going to be a class action and how many lawsuits have been filed against Merrill Lynch so the Board can have some idea at what this universe looks like at this time. Mr. Greenfield responds that he will find out that information. Also based on what was said at the last meeting Mr. Goizueta had brought up about getting other attorneys to look at the matter. He is going to put together a list and bring it to the Board and the Board will make a decision on that.

Mr. Garcia-Linares asks for Troy Brown to come forward and talk about the Merrill Lynch Callaway Group issue and the fact that it doesn't affect him at all. He would like for Mr. Brown to clear the record. Mr. Brown remembers how he became involved with the Board. Right after he introduced himself to the Board for the first time Mr. Space made a motion to go out for RFP for a new consultant. As far as his involvement with everything that went on with Merrill Lynch he never gave any testimony to the SEC and he was not involved in the case. He was not involved in the Coral Gables account other than constructing the performance reports as he did for other clients. He did not service public fund clients. He sat in on some meetings but was not the lead on public fund accounts which is probably why he wasn't asked anything by the SEC. He thinks this Board's impression of him was that he always gave them straight answers and if he didn't know the answer he always got the answer to the Board afterwards. Mr. Naclerio asks if Mr. Brown was satisfied that he never profited from anything regarding his own personal finances and bonuses from Merrill Lynch. Mr. Brown responds that he is satisfied. He was paid a salary and a bonus but his bonus was not tied to the revenue of the Callaway Group. He didn't step into public fund accounts until Jeff Swanson left the Callaway Group and then he was asked to step in and try to save some of the relationships they had from leaving because Mr. Swanson went with a competitor and was trying to bring in business.

Chairperson Huston asks if they decided to bring an action against Merrill Lynch and Mr. Swanson would that impugn the relationship they have with Bogdahn. Mr. Brown doesn't see how it would. If the Board thinks they have a claim against Merrill Lynch they should proceed. He doesn't have any love for the company and if the fund had some kind of investment loss because of Merrill Lynch that the Board thinks they are entitled to he thinks they should do what they need to do. He has moved on and his clients have moved on and he is doing his best to have a successful career and distance himself from the Merrill Lynch issue as much as possible.

Dave West speaks to the issue. As a partner of The Bogdahn Group they went through a due diligence process before they hired Mr. Brown and they came to the conclusion that somewhere down the road litigation against Merrill Lynch was possible. They considered all the variables based on their due diligence on Mr. Brown and they felt that there would be no impact between the Board and the Bogdahn relationship. Mr. Brown informs that he enjoys working with this Board and the fund and he hopes the Board decides that they still want to work with him but if the Board thinks it is in their best interest that he should stop working with them then there will be no hard feelings about that. Mr. Naclerio thinks that if they were to make that decision, which he does not counsel at this point, they would have to understand that they might be cutting off their noses to spite their faces because they have to rely on Mr. Brown's good judgment going forward in the future and not worry about who is responsible for things that happened in the past.

Mr. Brown adds that in the time he worked with The Callaway Group his interactions with Mr. Swanson were very limited. They didn't service any accounts together like he does with Mr. West at Bogdahn. He had a limited account base that he worked with which was primarily hospitals, endowments and foundations. All he knows how to do is to tell the Board what he thinks and give the best advice he can and he did that at Merrill Lynch as he does that now with Bogdahn.

Chairperson Huston asks for Mr. Greenfield to let the Board know what is going on regarding any actions brought against Merrill Lynch because of the SEC. Mr. Greenfield responds that he will do his best.

4. New Business (*Agenda Item 11*).

Mr. Greenfield informs that Ms. Groome gave them information in regards to portfolio monitoring. They already have Northern Trust monitor the portfolio and if Northern Trust believes there is a class action they will notify the fund and get involved in it. They have received money from time to time as a result of that. A few years ago they had some law firms come to the Board to represent the fund as a lead plaintiff in a case so they can file class action lawsuits. This particular law firm Coughlin, Stoa, Geller, Rudman and Robbins would like to sign the fund up on a portfolio monitoring program. There is no obligation to be on their monitoring program. The Board would have to sign an agreement with them and the agreement says that they want to take advantage of their no-fee monitoring program. This firm feels they have the best proprietary program in existence and if they identify anything that would be a potential loss to the fund then they

would then come to the Board and negotiate a representative agreement at that time. They are not asking the Board to do that now.

Mr. Naclerio asks if they once considered this in the recent past with the other law firms and decided that Northern Trust was doing a decent job. What has changed? Mr. Greenfield informs that the only thing that was different between the past and this one is that the other law firms did not seem to have a proprietary computer program that monitors securities world-wide and will notify the fund as to anything that is happening with any security the fund has world-wide. That is the only difference. Mr. Garcia-Linares asks what type of due diligence has Mr. Greenfield done regarding this law firm. Mr. Greenfield answers that he has not done any due diligence however their information is extremely impressive. Mr. Space asks what they would be doing better than Northern Trust. Mr. Greenfield replies that according to this law firm they have a wider platform and a better proprietary computer system to give information back to the fund more than what a custodian would have. This is what they say in their literature. They work with custodians but they have a wider platform. Mr. Space notices that the law firm has a huge list of clients in Florida that are public funds. Has anyone contacted these people on the list? Mr. Greenfield answers negatively.

Ms. Groome informs that the law firm contacted her directly and she spoke with Laura and Sandra Stein and they said the service was cost free and that the system would not have pay anything and even if they went into litigation that the law firm would receive their fees out of the settlement. They were very convincing. Mr. Space says that there is a retirement conference in the next month and thinks Ms. Groome should talk to some of the people on their list of clients and do some background on the firm.

Mr. Greenfield continues with his report. They have finalized the contract with Richmond Capital for TIPS. He spoke with the people at BNP regarding the Spectrum CD the Board is considering. They answered the questions he had regarding their agreement. This product has a five year term. If the fund stays in for the five years then they will get their principal back but if they wanted to get out early there is no guarantee that the fund would get their principal back. Mr. Garcia-Linares points out that there may be one other public pension fund in this CD and they would be the guinea pigs going into this process. Mr. Goizueta informs that he has a problem with holding the money for five years. Chairperson Huston thinks that they should discuss this item under Investment Issues.

Mr. Garcia-Linares states that before they get to the investments he wanted the following information in the minutes to be highlighted for the Commission regarding UBS. After the payment of fees it says that the UBS settlement would net \$1,821,288. If you take away from that the \$146,000 they have already invested it comes down to \$1,675,288 so that number will be reduced by whatever costs from Mr. Greenfield and Mr. Carlson the Board still owes them. He wants to be clear in case the Commissioners want to read it that the fund will likely be netting under \$1.6 million. The Invesco case was a separate lawsuit that was filed by the Board and it was separately settled and ENRON had nothing to do with UBS and ENRON was a separate proof of claim.

Mr. Greenfield reports that the 2007 Annual Report was approved by the State. In their approval they made a note to have the Board consider the recommendation for an independent auditor and the Board will be discussing that shortly. Mr. Goizueta states that the letter approving the report also stated that the fund was \$1 million short. Mr. Nelson informs that the State identified that the City needs to fund \$1,308,157. This is an amount that Randall Stanley calculated based on the \$3.2 million shortage that the City had not funded over the years because of the actuarial change in value on the assets. The accrued interest on the \$3.2 million the City recently funded has a rate used by the actuary of 7.75%. The change of going from an annual contribution that they did historically once a year to a quarterly contribution also resulted in an interest portion. The combined total as the actuary has calculated is a \$1.3 additional funding requirement that the City needs to make. They have met with Mr. Stanley and have had a discussion as of two days ago as to how he calculated this amount. The City is opposed to how the actuary did the calculation and the timing of the calculation and the use of 7.75% which is the actuarial rate on the calculation. The retirement fund has not earned 7.75% so the actuary is reviewing his requirements of using that rate and they are looking at the time of deposits to make sure the actuary is using the right principal amount in order to verify that the \$1.3 million is correct. Mr. Garcia-Linares asks when the City will pay for that amount. Mr. Nelson informs that it will have to be budgeted in 2009/2010. Also, the City is going to change back to funding the retirement system one time at the beginning of the fiscal year. The State had requested they change to a quarterly contribution and if he had known the City would be charged interest at 7.75% he would have continued to fund the contribution once a year.

Mr. Garcia-Linares wants to know if they have gone back and researched the comment made by the Police that there was some agreement out there that the City Attorney, Mr. Greenfield and Mr. Nelson don't know anything about as to why the fund hasn't been paid the \$30,000 owed by the Police fund. He asks Mr. Greenfield if that was researched. Mr. Greenfield informs that there is no way for him to research it. Mr. Garcia-Linares states that no one has any recollection about an agreement that the Police fund can take from this fund to recover their interest from the fund because the State Report was not filed on time. Mr. Nelson comments that there has never been anything in writing or any agreement brought to the Board and approved which would be a requirement to do that. If there was an agreement they don't have it in writing plus it was not approved by this Board. Mr. Garcia-Linares believes that this Board has a fiduciary responsibility to this fund to recover that money.

A motion was made by Mr. Garcia-Linares and seconded by Mr. Naclerio that the Board insists that the Board attorney pursue whatever remedies he needs to pursue in order to recover the \$30,000 owed to the fund by the Police fund.

Discussion:

Thomas Roell, an attorney with the law firm of Cohen and Rind, believes this issue was raised at the last Board meeting. At that meeting Mr. Cohen explained to this Board that he would take this issue back to the 185 Board and discuss it with that Board to determine how it would be handled. He apologizes that Mr. Cohen was not able to be at

this meeting and he has not had the opportunity to bring the issue back to his Board but he is more than willing to address this issue again at the next Retirement Board meeting. There is more than just the \$30,000 deficit to this fund. There is also a \$1.3 million deficit. Mr. Nelson explained that there maybe some actuarial issues however there are going to be some problems with the 2008 Annual Report and it is going to be a \$1.3 million problem. The Board is willing to go after the Police fund for \$30,000 but is not willing to go after the City for the \$1.3 million. Mr. Diaz agrees.

Motion approved (5-2) with Mr. Diaz and Mr. Space dissenting.

5. Attendance of Brett Friedman from McGladrey and Pullen, the auditors for the City the Coral Gables, regarding the preparation and submission of the State Annual Reports. (*Agenda Item 7*)

Chairperson Huston asks for the Mr. Friedman to address the Board as to auditing. The State of Florida has recommended to the Board to employ an independent auditor to the Retirement System.

Brett Friedman informs that he is the audit director and is responsible for everything that goes on in the City's audit. He has been in public accounting and doing government audits for over 15 years. He has extensive experience in doing city audits as well as pension audits. The City switched their accounting software and they have had major issues getting the audit done timely due to that. They are basically over a year behind in trying to get things fixed. They have done all the testing on the retirement plan. They need to get some clarification on the \$1.3 million as to how that is going to be recorded in both the State Report and in the retirement plan's financial statements. Mr. Garcia-Linares asks when the testing was done. Mr. Friedman responds that it was scheduled to start in February and since the City wasn't ready it was started in March. Mr. Space asks how many people actually do the work on the audit for the City. Mr. Friedman responds that there is usually four staff working on the audit. Mr. Space asks why is it not possible to have one of those people be assigned to the retirement fund to get it audited so the State Report can be submitted on time. Mr. Friedman replies that the issue that holds up the report is that the actual accounting and reporting of the trial balance that the City prepares for all its funds is not done. That information is not prepared and ready for audit. Mr. Space asks why the City funds are tangled up in the retirement fund. Mr. Friedman explains that they can do the work earlier provided that the City has the accounting finished for the retirement fund first. They can come in and do that work in November or December because there are not a lot of things that slow up the retirement fund from getting the accounting and the investment activity closed and reconciled. Mr. Space asks if they can audit the retirement fund before they start the audit for the City. Mr. Friedman responds that if they have the books ready for the retirement fund which is one of the individual funds of the City they can do the audit for the retirement fund and have it finished before the rest of the City is done. It is a matter in how the City gets things organized.

Chairperson Huston states that the Board has had a recommendation from the State of Florida to hire an independent auditor for the retirement system. How would McGladrey & Pullen interact with another auditor if they were brought in to do the retirement system? Mr. Friedman informs that they would have duplication of the work and be paying for the same thing twice because as part of their audit they do auditing of investments, investment income, benefit payments and contributions. They can issue a separate report for the retirement plan and get that done before December. The one thing they would need is to have the City on board and have retirement fund accounting done before the rest of their accounting. Mr. Naclerio states that they have had this issue for eight years. Now they are saying they can come in and do this in December? Mr. Geraci asks why this hasn't been done before. For eight years they have been late with the State Report and the police and fire are getting penalized and losing interest money. Why is it being brought up now?

Mr. Nelson explains that in the past they have combined the retirement fund in the Comprehensive Annual Financial Report which is all funds of the City. Mr. Friedman has offered a simple solution saying that he can prepare a separate financial report for this Board early in the year. The problem is in the past they have waited until all the other funds of the City were completed to do one report. Mr. Geraci asks if they did have this independent process for the Board done last November would they have known about the \$1.3 million. Mr. Nelson replies that it is a separate item as to how it is going to be funded by the City. It is a budgetary issue on the City side. They have had a great solution regarding the audit of the retirement fund. McGladrey & Pullen is an excellent firm and they know the City. Mr. Geraci indicates that he has to be assured that the Board is doing their fiduciary duties by getting these reports done on time. Mr. Friedman explains that they can arrange a letter for the Board to issue a stand alone report for the Board first before completing the rest of the City audit and it would be done before December. Mr. Diaz thinks that the recommendation from the State is to have an independent auditor come in and check the work of the City's auditor. Mr. Friedman states that as independent auditors they do not work for their clients at all. They represent the constituents of the City and their work is done independent of the City.

Chairperson Huston doesn't think there would be extra work done if the Board hired an independent auditor. He asks Mr. Greenfield's opinion. Does he think that hiring the same firm to do the retirement fund's audit would satisfy the State of Florida? Mr. Greenfield responds that it was only a recommendation from the State but they did recommend that the Board have a separate auditor. Chairperson Huston asks if they did the separate audit would they also prepare the State Report. Mr. Friedman responds that it would not be a problem. The State is asking for an independent auditor of the plan itself not necessarily a different audit firm. The State doesn't want the retirement fund being held up by other issues affecting the City. Mr. Garcia-Linares asks if they provide an independent report to the Board then that report would state that there is a disagreement between the actuary and the City regarding the \$3.1 million. Mr. Friedman answers affirmatively. Mr. Garcia-Linares asks if the Board hires an independent firm to do the audit of the system couldn't McGladrey & Pullen rely on the information of the firm the Board hires to do their report and not duplicate the work. Mr. Friedman answers

affirmatively. Mr. Garcia-Linares thinks they should hire a separate firm for the retirement fund. Chairperson Huston agrees.

Mr. Goizueta asks when the City plans to have the software fixed. Will it ever get fixed? Mr. Nelson responds that they are bound by the new software system the City acquired and one component is financials which affects all departments in the City. The auditors in their due diligence have spent a lot of time verifying and that is why there has been a delay. They have verified payroll and they have verified the general ledger and they believe that their accounting system going forward will be on track for fiscal year 2009. Mr. Friedman adds that they are auditors for other cities that use the EDEN system and after it is implemented and working properly they have had no accounting or reporting issues.

Mr. Goizueta asks if the settlement from UBS will lower the City's contribution. Mr. Naclerio rephrases the question. Will the City's contribution be independent of the settlement from UBS or is the settlement going to be found money from a third party? Mr. Nelson explains that when the net amount of the settlement is received that amount will go into the retirement fund as a revenue. That will be calculated by the actuary as a source and will be part of his entire calculation. The net result could lower the amount of the City contribution.

Mr. Geraci asks if they can get some sort of documentation from McGladrey & Pullen that states their firm will be auditing the retirement fund independently. Mr. Friedman answers affirmatively. They would issue an arrangement letter to be approved and signed by the Board.

Mr. Roell asks if the auditor could give a report on where they stand with completing the 2008 State Report. Mr. Friedman explains that the audit test work and the numbers are done except for the \$1.3 million and how that is to be treated.

A motion was made by Mr. Garcia-Linares and seconded by Mr. Goizueta to have the current firm continue with the completion of the 2008 State Annual Report. Motion unanimously approved (8-0).

6. Investment Issues. (*Agenda Item 9*).

Dave West of The Bogdahn Group reports that Christophe Pochart and Christopher Gross from BNP Paribas are available if the Board has any questions regarding the Spectrum CD. Chairperson Huston states that the Investment Committee reviewed this item and has recommended that the Board go forward with this CD.

A motion was made by Mr. Space and seconded by Mr. Garcia-Linares to not go forward with the BNP Paribas Spectrum CD.

Discussion:

Mr. Space states that there is no history in this program so they would be leading the program and the second issue is if you don't make a lot of money the first year in the

program it is going to be very hard to make any money thereafter. The first year you get 100% of the gain and from that point on you don't. Mr. West explains that they would be looking at each year individually. It is definitely more beneficial to the outcome if the first year is a positive year.

Motion unanimously approved (8-0).

Mr. Naclerio left the meeting at this time.

Mr. West continues. He reviews the April performance. They added just under \$10 million to the fund from investment returns for the period. Equities performed quite well for the period. The domestic equity portion added \$7 million and the international portion added \$1.2 million. They had some moderate performance coming from the bonds side which was an addition of \$738,000.

Mr. Space states that there is a stimulus package and they are racking up a lot of long term debt. How long will the stimulus make an affect? Have they discussed that with their colleagues at Bogdahn? Mr. West responds that the expectation is that it is going to take a little longer because of the lack of specificity in each of the programs. The money is available but it hasn't been deployed. Mr. Space asks if the money that is going to be put in over a period is a positive. How long will it make a positive affect on the economy? Mr. West states that with the actual economic statistics when employment starts to turn positive it is probably a year away economically. It is essentially that the economy takes over to pay down that additional deficit. The current administration's plan is the expectation that the economy will take over and pay down that debt. Mr. Brown agrees that they still have a way to go.

Mr. Garcia-Linares left the meeting at this time.

Mr. West explains about the TALF program. There are three phases to that program. The first phase has investors lined up to participate to be the secondary market to buy loans when they are issued. It appears to have institutional investors lining up to get into this TALF program. Chairperson Huston asks if the flood of bonds the government is issuing now will ultimately cause inflation. They are going to have to monetize this thing somehow. Mr. West agrees. That is a key concern with a flood of treasuries out there that is going to force potentially supply and demand forces interest rates up. Investors demand a higher risk premium. It has a damping affect on the dollar which makes the goods and services more expensive. The backside of the recovery people have already concerns about inflation. That is where the TIPS component comes in. That outlook is starting to be reflective in the TIPS market already. Mr. Brown believes that for the next two years they are in a deflationary environment.

Mr. Geraci thinks that it is time to start getting back into the equity market. There are still some really good companies with good values and thinks that now is the time to start to buy them. In his opinion you have to look in an area like indexes which might be a good investment to look at in the long term and the short term. It may be time to start

rebalancing now knowing that they don't want to miss the upside. Maybe they can find a company that specializes in index funds so they don't miss the up and are stabilizing their current investments. He thinks they need to start rebalancing now so they don't miss any opportunities. Mr. Brown thinks rebalancing makes sense however he would lean more toward active management in this environment rather than in indexes. He would rather have an investment professional identifying companies that were going to stand on their own that did represent good values than buying an index. Mr. West states that at this point in the cycle active management provides extra value than a passive index strategy. The standing recommendation is to rebalance back to the targets.

Chairperson Huston informs that the consultants are recommending rebalancing to the targets but there is still a question of what to do with the \$5 million that they are not putting into BNP. Mr. Brown informs that the \$5 million will be spread around the managers in the portfolio when they do the rebalancing.

Mr. Brown explains that a potential investment for the fund is the TALF program. The problem as it relates to this fund is the slow movement in getting agreements for managers signed with this fund. It is a program that is very short in nature and it is not that difficult to understand. The counter party is the Federal government and they are willing to offer non-recourse loans at a low interest rate to allow them to buy investments at roughly 10 to 20 times leverage. For example they can control \$100 million worth of securities for \$10 million. So you have 325 basis points of arbitrage on a \$10 million investment. Mr. West states that it is the same old product with a twist which is the non-recourse leverage. Currently both of the fund's fixed income managers can buy AAA bonds, mortgage securities, auto loans, credit card receivables. It is the same thing that has been around for years but the difference is instead of making a 4% yield and holding it like a regular bond in the portfolio because of the leverage factor with \$10 million they can get and control \$100 million in interest. And if there is a problem with the underlying loans they can take the collateral which is tied to the loans from the Treasury and send the whole thing back to the Treasury less the deposit. The fund would be participating in a private equity fund.

Mr. West informs that there is a time window on this investment. They have gone through and looked at all the bond managers that have an expertise in this area and are offering this product. These managers have already been vetted by The Bogdahn Group so the due diligence has already been done. They came down to one manager that they think is particularly qualified and are offering a product at competitive terms. It is a PIMCO managed product. Mr. Space asks what the upside is and what the downside is. Mr. West informs that the investment would be locked up for three and a half years. They are basically matching their assets and liability. The fund is borrowing from the Treasury for a three year term and they are buying assets for a three year term. The two go together and they are locked into that investment for three and a half years. Mr. Brown informs that this product is only being offered by the Federal government until December 31, 2009 and then it is over. Mr. West adds that PIMCO has pledged about \$1.5 billion in assets to go into this already and they are going to close this product on May 20, 2009. They are looking for a second close in June. Mr. Brown suggests that if

the Board is interested in this he can have the documents issued to Mr. Greenfield to review and then at the next meeting the Board can make decision as to whether or not they want to pursue this product.

Chairperson Huston asks Mr. Nelson's opinion on this product. Mr. Nelson states that on the concept the product looks great but he really wants to study it further. They can have Mr. Greenfield look at the documents and do some due diligence. They are purchasing a fund and are not leveraging.

A motion was made by Mr. Goizueta and seconded by Mr. Space to rebalance to target. Motion unanimously approved (6-0).

Chairperson Huston informs Mr. Brown and Mr. West that the Board agrees to start the paperwork on the TALF product with PIMCO and that due to time constraints of getting into that investment will make a decision on that product without it being reviewed by the Investment Committee. Mr. Brown informs that PIMCO will not change their legal documents for this plan. They would love to have the \$10 million in their product but will not change their legal documents. If the legal documents are not agreed upon by Mr. Greenfield then they will just not participate in the product with PIMCO. Mr. West informs that there is a time limit for this product. Mr. Diaz asks why the amount of \$10 million in the fund. Mr. Brown informs that is the minimum to get into this product.

7. Approval of the Retirement Board meeting minutes for April 22, 2009. (*Agenda Item 2*).
A motion was made by Mr. Goizueta and seconded by Mr. Space to approve the meeting minutes of April 22, 2009. Motion unanimously approved (6-0).
8. Report of Administrative Manager. (*Agenda Item 4*).

A motion to accept the following items of the Administrative Manger's report without discussion was made by Mr. Goizueta and seconded by Mr. Space. Motion unanimously approved (6-0).

1. For the Board's information, there was a transfer in the amount of \$1,600,000.00 from the Northern Trust Cash Account to the City of Coral Gables Retirement Fund for the payment of monthly annuities and expenses at the end of April 2009 for the May 2009 2008 benefit payments.
2. For the Board's information, there was a wire transfer in the amount of \$5,392,452.00 from the City of Coral Gables' bank account to the Coral Gables Retirement Northern Trust Cash Account for the City's 3rd quarter retirement contribution of 2009.
3. For the Board's information, the following Employee Contribution check was deposited into the Retirement Fund's SunTrust Bank account:
 - Payroll ending date April 12, 2009 in the amount of \$105,094.21 was

- submitted for deposit on April 21, 2009.
 - Payroll ending date April 26, 2009 in the amount of \$72,498.75 was submitted for deposit on May 11, 2009.
4. A copy of the detailed expense spreadsheet for the month of April 2009 is attached for the Board's information.
 5. For the Board's information Ralph K. Lichtenberger of the Police Department passed away on May 8, 2009. He retired on October 1, 1982 with Option 1 – 10 years certain. His benefits have ceased.
 6. Attached for the Board's information is the Statement of Settled Transactions from April 1, 2009 to April 30, 2009 from JP Morgan.
 7. For the Board's information a copy of the Commission Analysis prepared by Donaldson and Company for the fourth quarter of 2008 and first quarter of 2009 are attached.
 8. A copy of a memorandum from the State of Florida informing that the 2007 Annual Report has been reviewed and approved.
 9. A copy of the April 2009 NCPERS Newsletter "The Monitor" is attached for the Board's information.
 10. Attached are copies of JP Morgan's email newsletters for April 27, 2009 and May 4, 2009 for the Board's information.
 11. A copy of the Executive Summary of JP Morgan's White Paper "Non-normality of Market Returns" is attached for the Board's information.
 12. For the Board's information a copy of a letter from Justin Murphy of JP Morgan Asset Management regarding the Special Situation Property Fund is attached.
 13. Copies of the City Beautiful e-News newsletters giving the latest news and information about the City of Coral Gables are included for the Board's information.
9. Employee Benefits:
(The Administrative Manager recommends approval of the following Employee Benefits.) (*Agenda Item 5*).

DROP Benefits:

DROP application of Katherine Eckenroth of the Police Department. Effective date May 1, 2009.

DROP application of Larry Baile of the Public Service Department. Effective date May 1, 2009.

A motion to approve Ms. Eckenroth's application for the DROP (Deferred Retirement Option Plan) and Larry Baile's application for the DROP (Deferred Retirement Option Plan) was made by Mr. Goizueta and seconded by Mr. Easley. Motion unanimously approved (6-0).

10. Submission of bills for approval. (Administrative Manager recommends approval of the following invoices). (*Agenda Item 6*).

The Department of Management Services Division of Retirement invoice #150491 dated March 3, 2009 for the cost for the City of Coral Gables to purchase past service for its employees at the Regular Class membership in the amount of \$33,602.44. (Deferred from April 22, 2009 Retirement Board meeting)

Ms. Groome explains that this is the amount for a transfer to transfer from the City of Coral Gables Retirement System to the State of Florida Retirement System for the mayor and Commissioner Cabrera's participation in the State of Florida Retirement System. Mr. Goizueta asks for this item to be deferred until the next meeting. Ms. Groome informs that the amount is due by June 30, 2009. The item was deferred until the June meeting.

Joan Bailey & Associates invoice #44744 dated April 10, 2009 in the amount of \$1,309.00 for the attendance of a court reporter for the Shade meeting on April 10, 2009, invoice #44840 dated April 27, 2009 in the amount of \$770.00 for the attendance of a court for the Shade meeting on April 22, 2009 and invoice #44934 dated May 8, 2009 in the amount of \$735.00 for the attendance of a court reporter for the Shade meeting on May 5, 2009 for a total amount due of \$2,814.00.

A motion was made to approve the Joan Bailey & Associates invoices in the amount of \$2,814.00 by Mr. Goizueta and seconded by Mr. Space. Motion unanimously approved (6-0).

11. Old Business.

Set next meeting date for Thursday, June 11, 2009 at 8:00 a.m. in the Community Meeting Room at the Police Station basement.

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Meeting adjourned at 11:47 a.m.

APPROVED

TOM HUSTON, JR.
CHAIRPERSON

ATTEST:

KIMBERLY V. GROOME
RETIREMENT SYSTEM ADMINISTRATOR