

### City Commission Workshop

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
March 25, 2009

|                                  |                                      |
|----------------------------------|--------------------------------------|
| Mayor Matti Herrera Bower        |                                      |
| Vice-Mayor Edward L. Tobin       |                                      |
| Commissioner Victor M. Diaz, Jr. | In at 2: 30 p.m. Out at 6:18:57 p.m. |
| Commissioner Saul Gross          | In at 2:35 p.m.                      |
| Commissioner Jerry Libbin        |                                      |
| Commissioner Deede Weithorn      |                                      |
| Commissioner Jonah Wolfson       | Out at 4:14 p.m.                     |

City Manager Jorge M. Gonzalez  
City Attorney Jose Smith  
City Clerk Robert E. Parcher

Visit us at [www.miamibeachfl.gov](http://www.miamibeachfl.gov) for agendas and video "streaming" of City Commission Meetings.

#### ATTENTION ALL LOBBYISTS

**Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.**

Call to Order – 2:22:00 p.m.

Mayor Bower announced that each person has a pad and a highlighter and to write the questions and ask them at the end of the presentations.

#### WORKSHOP AGENDA

1. Discussion Of The Miami Beach Employees' Retirement Plan And The City Pension Fund For Firefighters And Police Officers In The City Of Miami Beach Alternatives.

**ACTION: Discussion held.**

Jorge Gonzalez, City Manager stated that today's workshop is a follow up to the previous one on March 2<sup>nd</sup> since were not able to accomplish then the discussion on pension. He explained that at the City Commission Retreat, last year, the direction given to the Administration was to explore the various options available particularly the Florida Retirement System but also to explore pension in general and how it affects the City's long term sustainability and the ability to fund the benefits promised current and future employees. He explained that we do not have all the answers today to be able to make a decision but this workshop will show them areas that they may want to look more into or areas that they do not want to proceed. He explained that to the Florida Retirement System has an immediate extra cost more so than what is paid today, the question is how much extra of for how long, before we start to see the savings. He stated that it is safe to say that the two fundamental key questions that need to be dealt with are: 1) What should we do as far as adjusting the pension benefits and 2) How much adjustment is required based on what the city can afford and who will the

adjustments affect, new employee versus old employees, vested employees versus non-vested employees? What will be accomplished today is that everyone will have an understanding the world of pension and the options available and then the analysis can start geared as to what we want to accomplish.

James W. Linn Special Pension Counsel from Lewis Longman and walker P. A. gave a PowerPoint presentation, "Retirement Plan Overview."

Steve Palmquist, City Actuary from GRS gave a PowerPoint presentation, City Retirement System and Florida Retirement System Analysis."

James W. Linn Special Pension Counsel from Lewis Longman and Walker P. A. gave a PowerPoint presentation, Consideration joining the Florida Retirement System."

Stephen Cypen Esq., Miami Beach Pension Attorney, spoke.

Raymond Edmondson, CEO of the Florida Public Pension Trustee Association, spoke.

Fred Nesbit spoke.

Dan Given, Miami Fire Fighters' Relief Pension Fund, spoke.

Brad Heinrichs, Foster and Foster Actuarial Consultants for Public Pension Plans from Ft. Meyers, spoke.

Adonis Garcia, IAFF Local 1510 President, spoke.

Richard McKinnon, President of CWA, Local 3178, gave a PowerPoint presentation.

Kenneth Harrison representing CWA spoke.

Alex Piedra, FOP President, spoke.

Discussion continued.

Commissioner Libbin stated asked Jose Smith what they are referring to when they speak about the Lake Park decision

Jose Smith, City Attorney, explained that he will let the pension counsel explain it.

James W. Linn, Special Pension Counsel from Lewis Longman and walker P. A., explained that the Lake Park case involved the town of Lake Park in Palm Beach County which entered in to a contract with the county fire district and as part of the contract all of the town's fire freighters transferred to the county and as county employees they became under the Florida Retirement System. Because of the employment with the town was terminated, there were no more members in the town's pension plan and the plan terminated by operational law. When the plan terminated, the pension board decided how the accrued benefits were going to be paid out. They decided that rather than being paid over a period of time they will pay it as a cash lump sum. These pay outs were very high and there was a \$600,000 short fall and they tried to take the available assets and pay out these benefits. The town of Lake Park said that they did not have the money to cover the short fall and the town filed a declaratory judgment action and the Circuit Court agreed with the town because in one art of the statute it states that the benefits are not forfeitable and in another part it states that the employer is

only required to pay out based on the assets that were available in the fund. The pension board appealed the decision of the District Court of Appeals and the District Court of Appeals ruled that the non-forfeitable language trumps the available assets language and they had to pay.

Discussion continued.

Jorge Gonzalez, City Manager, stated that there is a basic pension requirement that Sections 175 and 185 have, which is less than what the Florida Retirement System provides and less than what the City of Miami Beach provides to its Police and Fire. The requirement is to provide minimally what Sections 175 and 185 require having as a benefit.

Discussion continued.

Jorge Gonzalez, City Manager, stated that calculations and analysis could be made to determine what the benefits of the City's Plan were in 1999 and look at today's benefits to determine if those additional benefits are in excess of \$2Million. He does not know what the law is but this could be identified.

Commissioner Gross asked Mr. Cypen if he agrees with what the City Manager said.

Stephen Cypen Esq., Miami Beach Pension Attorney, stated that he did not think it is as simple when you have a shared plan. He stated that there are a lot of contractual and referendum issues. He is not aware of this ever happening.

Commissioner Gross stated that the thought Mr. Cypen had said that there were six of seven cities that have decided to take their monies out of the shared plan.

James W. Linn Special Pension Counsel from Lewis Longman and walker P. A. clarified that it was not out of the shared plan but thru the bargaining process were able to use the monies going to additional benefit being held to provide additional benefits and were able to use that money to offset the cost of existing benefits.

Commissioner Gross asked if there are any municipalities with a share plan that have been able to take the money out of the shared plan to defray benefits that are in excess of the 1999 benefits. Mr. Linn responded that "not to his knowledge." He added that he did not think there will be a legal problem to do that.

Commissioner Gross asked Mr. Linn that as a lawyer did he think this is legal. Mr. Linn responded that in his opinion it is legal. Commissioner Gross added that the calculation the Manager suggested needs to be done to find out how the current benefits compare to the 1999 benefits. He requested that the Administration do the calculation. **Ramiro Inguanzo to handle.**

Discussion continued.

Commissioner Diaz stated that what we are really looking at is if we can continue to afford to pay this kind of pension benefit going forward. He explained that the comments made by the union representatives have been very fair and the city needs to look at the long term perspective on this issue but this is tempered by the fiscal realities of today. He asked Mr. Linn, on page 6 City of Miami Beach Retirement Plan Overview, the unfunded taxpayer's pension liability as October 2008 it is \$100 Million, as of October 2008, for the General Pension Fund and \$137 Million, as of October 2007, for the Fire and Police Fund. He asked why the unfunded actuarially accrued liability for Police and Fire

is dated as of October 1, 2007 and why are we do not have actual figures for October 1, 2008. Also, why have we not been able to at least estimate the figures for 2008?

James W. Linn Special Pension Counsel from Lewis Longman and Walker P. A. stated that the reason is because they do not have the actuarial valuation completed for October 1, 2008. They have the General but not the one for Police and Fire.  
Discussion continued.

Commissioner Diaz asked when the City will receive the actuarial unfunded taxpayer's pension liability for the Police and Pension Fund.

Celia Locke, Executive Director of the Fire and Police Pension Fund, stated that the actuary attended the board meeting there were minor changes that needed to be done. She stated that she will have to talk to the actuary, but she estimated it will be done in about a couple of weeks. It should be completed by mid April. The report will have to be approved by the Pension Board at their meeting on April 16, 2009.

Commissioner Diaz asked Ms. Locke if she has a draft of the actuary report discussed at the last pension Board meeting. He asked if the City manager had this report with the changes to be worked out. The Manager stated that he only receives the final report but this is public record. Commissioner Diaz requested a copy of this report. **Ramiro Inguanzo to handle.**

Discussion continued.

Commissioner Diaz asked Mr. Cypen if he recalls the ranges on the report for the unfunded police and fire liability.

Stephen Cypen Esq., Miami Beach Pension Attorney, stated he does not recall the unfunded liability but he recalls the requirement contribution and it was an increase. He remembers that the board made recommendations and it brought the increase down about \$1 million.

Jorge Gonzalez, City Manager, stated that the increase was about \$3 million.

Discussion continued.

Commissioner Diaz asked what where the investment losses for the General Employee's Plan?

Stephen Cypen Esq., Miami Beach Pension Attorney, stated that he did not have the number.

Commissioner Diaz requested the report on the General Employee's Pension Plan investment losses.  
**Ramiro Inguanzo to handle.**

Stephen Cypen Esq., Miami Beach Pension Attorney, stated that he had the percentages and as of October 1, 2008 the General Plan had a loss of 13.58% for Fiscal Year 2008 and the Police and Fire Plan had a loss of 10.43% based on preliminary information provided by the police and Fire actuary.

Discussion continued.

Commissioner Diaz stated that even after factoring in the Social Security the Florida Retirement System contribution rate is significantly lower than the contribution rate for Police and Fire although on a different payroll. His question is the difference 30.33 % vs. 65% is there any way that the difference in the payroll on which that percent was based is great enough to bring them to line.

Stephen Cypen Esq., Miami Beach Pension Attorney, said "no."

Commissioner Diaz stated that even though this is based on a different payroll the City of Miami Beach is twice as generous as the Florida Retirement System plan in the amount of employer contribution but it will not bring the City's plan into fiscal line with the Florida Retirement System plan is.

Stephen Cypen Esq., Miami Beach Pension Attorney, explained said no and that the difference in payroll is about 10% but it is hard to say. **Ramiro Inguanzo to handle.**

Commissioner Diaz asked if it would be possible to recalculate these rates taking into account the difference in payroll to present the information to the public when the decisions are made and also to be able to compare apples to apples.

Jorge Gonzalez, City Manager, stated that it could be done.

Commissioner Diaz asked in reference to page 10 asked what will be the anticipated increase in the contribution rate for the City to grow to be able to compare apples to apples.

Stephen Cypen Esq., Miami Beach Pension Attorney, stated that for Police and Fire it is going from \$20 Million to \$23 Million.

Commissioner Diaz stated that the City's rate of contribution growth is substantially faster. He added that the City Attorney's opinion is needed on the referendum question. The question is whether any change in the pension requires a public referendum. This opinion should be done early so the unions have an opportunity to respond. **Legal Department to handle.**

Jose Smith, City Attorney, asked Jim Linn if there are any more recent case authorities on the issue of the referendum.

James W. Linn Special Pension Counsel from Lewis Longman and Walker P. A. said that yes there is.

Discussion continued.

Commissioner Diaz stated that going forward the same rate should be used to be able to make the comparison if the argument is valid and the appropriate % is a % of covered payroll.

Jorge Gonzalez, City Manager, referred the question to Stephen Cypen and asked him what will be the right approach to use covered payroll or actual payroll.

Stephen Cypen Esq., Miami Beach Pension Attorney, stated that there is no right approach but to be consistent as between the two.

Jorge Gonzalez, City Manager, stated that the City receives an annual actuary report and it gives a number and it gives the percentage of payroll and asked what kind of payroll is it covered payroll or non-drop payroll

Stephen Cypen Esq., Miami Beach Pension Attorney, stated that is a percentage of non-drop payroll.

Jorge Gonzalez, City Manager, stated that for funding and since this is what is used annually maybe this is the number that should be used, which is non-drop payroll.

Steve Palmquist, City Actuary from GRS, explained that there are three numbers, covered payroll which is called loaded payroll that is less than 100% of the pay of the active employees; we also have the active payroll and the drop payroll.

Commissioner Diaz stated that the City should agree as a percentage of non-drop payroll.

Discussion continued.

Commissioner Weithorn clarified that the loaded payroll that the actuary uses is the bi-weekly salaries of all the members which includes premiums and longevity and for the unclassified just the biweekly salaries, to that amount he adds a salary scale assumption. The covered payroll which is a true payroll the employees pay 10% employee contributions. If the employees contribute 10 %, the true payroll is the 10% of the number.

Commissioner Diaz withdrew his question and stated that whatever the employee contribution is based on we can calculate the rates based on that and Mr. Palmquist agreed. He added that this is fair and when we compare what the City contributes to what the employees contribute we should be using the same payroll. **Ramiro Inguanzo to handle.**

Jorge Gonzalez, City Manager, stated that the annual required contribution as a percentage of covered payroll is 21.57% and this is a standard number.

Stephen Cypen Esq., Miami Beach Pension Attorney, clarified that the City pays 1/10 of the payroll, 1/10 of the contribution multiplied times 10 that is the appropriate payroll then you need to add the drop payroll to that and that is how you arrive at apples to apples.

Celia Locke, Executive Director of the Fire and Police Pension Fund, stated that the Board of Trustee are dedicated men and women who do their job with extreme care and fiduciary responsibility and what she is getting out of this discussion is that somehow the City Commission believe that the Police and Fire Pension Board has done something wrong or that the actuary has done something wrong. She stated that she was asked to prepare a schedule yesterday and that schedule indicates that for most years the Police and Fire Pension was funded at 100%. With regards to the actuary assumption, the actuary attends the board meetings and presents assumption and with the board decisions are made. She explained that the actuary looks at the long term provisions and there has been high salary increases and if you adjust salaries it will increase the contribution by millions of dollars. The pension Board has tried to do, over time, was that when market returns were very good changes were made to the assumptions and nobody expected what has happened in the market. She added that the actuary is going to do an actuarial experience study and all the assumptions will be looked at. If the assumptions made over time are correct you would not have the unfunded liability but the cost to the pension consists of two things; the normal or current cost and the unfunded liability.

She just wanted to clarify this issue.

Discussion continued.

Commissioner Weithorn requested the historical changes made to the pension plan benefits from 1999 till present. **Ramiro Inguanzo to handle.**

Discussion continued.

**6:05:26 p.m.**

Commissioner Weithorn stated that we have experienced three down cycles; the dot-com burst, the 9-11 impact and what is happening today and now we need to face reality. She would like to know what other cities are doing about the limited or no growth on our budgets, thanks to Tallahassee, and the increase in contribution requirements based on market changes. She explained that nobody is happy about the numbers but this city is not alone in this situation. **Ramiro Inguanzo to handle.**

James W. Linn Special Pension Counsel from Lewis Longman and Walker P. A. stated that other cities are doing exactly what this city is doing, examining other alternative. Very few cities have taken drastic measure such as placing new hires in the Florida Retirement System but for the most part they are trying to come to grips with the cost and trying to make decisions for the future. Most cities are in the information gathering stage and he is working on some projects with some cities. He

stated that the City of Ft. Lauderdale closed the general plan and started a defined contribution plan for general employees. The City of Jacksonville, two years ago, implemented a voluntary defined contribution plan for all employees. The employees could elect to participate instead of the defined benefit plan. He added that most cities are in the same mode this city is just finding out.

Commissioner Weithorn requested that they keep the City Commission posted and as other cities make decisions. **Ramiro Inguanzo to handle.**

Discussion continued.

Jorge Gonzalez, City Manager, stated that next key milestone is the actuarial analysis requested in order to have the right information and not guess and work with the real numbers. After that, conclusion can be made as to how much correction is required. This process will take some time.

Mayor Bower stated that it is very important that we all work with the same set of numbers so that we can all agree where we stand. She emphasize that we need to work together and compare the same data because we are not here to proof each other wrong. We need to all come to the same best conclusion for everyone.

There will not be a closed executive session.

2. Notice of Closed Executive Session.  
Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held Immediately After The City Commission Workshop On Wednesday, March 25, 2009 In The City Manager's Large Conference Room, Fourth Floor, City Hall, For A Discussion Relative To Collective Bargaining.

**ACTION: Not reached.**

Meeting adjourned at 6:20:49 p.m.

**End of Agenda**