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September 6, 2024

**VIA EMAIL: TMoss@Sunrisefl.gov**

Thomas Moss, City Attorney  
Mark Lubelski, City Manager  
City of Sunrise Florida  
10770 West Oakland Park Boulevard  
Sunrise, Florida 33351

Re: City of Sunrise Police Officers' Retirement Plan

Dear Mr. Moss,

I write in response to your letter dated July 5, 2024 and directed to Mr. Dave Williams, Plan Administrator of the City of Sunrise Police Officers' Retirement Plan (the "Plan"). The purpose of this letter is to respond to your baseless allegations that the Board of Trustees has engaged in the misuse of pension fund assets. I will address the specific issues raised in your letter.

Actuarial Study for the DROP extension

You state that the "the study was not requested by the City." Perhaps you are unaware that this issue has been raised, researched and discussed amongst City personnel before the actuarial study was requested. No one is disputing that such a change is a subject of mandatory bargaining, nor did the Board in any way circumvent this process. There is no "collusion" between parties. Quite simply, the Board responded to a request from the City personnel to assist in determining the cost of a potential benefit that may be up for discussion, and had requested information relevant to such a change.

You also allege that the "board is not involved in the consideration or approval of a pension benefit change." The City of Sunrise, Florida Municipal Code ("Code") specifically states that "the Board may make recommendations to the Commission on pension benefit changes." (Code Sec. 11-47). It would be remiss of the Board to make any recommendations without presenting the cost of such a change. You quote that it states in Ch. 185, Florida Statutes, "nothing herein shall empower a board to amend provisions of a retirement plan without approval of the municipality." We agree completely and in the history of the Plan, the Board has never amended provisions of the ordinance, never attempted to amend the ordinance, nor would anyone ever consider that the Board had that ability. They did however prepare themselves to make a recommendation as specifically authorized by the Ordinance.

Trustee Training Policy

Your second claim of a “misuse of funds” is the use of funds to educate members of the Plan who express an interest in becoming a trustee. The Board is given authority by the City to adopt a travel policy providing for members of the Board to attend trustee educational events. In Code Section 11-13 the Board is given the following power and duty:

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- (7) To make such rules and regulations as are necessary for the effective administration of the plan;

Also, Code Section 11-13, subsection (c) provides in part that: The board members shall be the named fiduciaries of the fund and, in that capacity, shall hold, manage, control, and safeguard the fund solely in the interests of members of the plan in the following manner:

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- (5) To administer the plan funds in accordance with the laws, statutes, ordinances, rules and regulations of the board, documents and other instruments governing the fund.

The Board is mandated to administer the plan in accordance with a number of different instruments, including the regulations of the Fund. Please be aware that, in accordance with the authority and duties granted to it, by the City, the Board has adopted a written “Pension Plan Trustees- In Training – Program.” and it is attached.. This policy specifically gives the Board the option to send a Plan member who is interested in becoming a trustee the ability to get them educated by sending them to educational events.

Your statement that pension boards are required to follow the travel and per diem requirements under Section 112.061, Florida Statutes is not correct. Section 166.021(9) (b) specifically provides that they are not required to do so, as follows:

Notwithstanding s. 112.061, the governing body of a municipality or an agency thereof may provide for a per diem and travel expense policy for its travelers which varies from the provisions of s. 112.061. Any such policy provided by a municipality or an agency thereof on January 1, 2003, shall be valid and in effect for that municipality or agency thereof until otherwise amended. A municipality or agency thereof that provides any per diem and travel expense policy pursuant to this subsection shall be deemed to be exempt from all provisions of s. 112.061. A municipality or agency thereof that does not provide a per diem and travel expense policy pursuant to this subsection remains subject to all provisions of s. 112.061.

Your statement that “no other public pension board has a similar policy” is also incorrect. There are many plans throughout the state who send non-trustee plan members to get educated, *including the Sunrise Fire Board* who has sent two non-trustee plan members to FPPTA conferences for education and certification. This is a prudent practice by the Boards

Letter dated 9/6/2024  
Response to Thomas Moss, City Attorney

across the state, especially for a Board such as Sunrise Police which only has two year terms, instead of the four year terms allowable by state law.

I am certain that you recognize the formidable task of fiduciaries to plans that are responsible for the retirement of first responders. They are responsible for prudent investment decisions, for maintaining benefits, for determining the appropriate assumptions and reviewing all plan documents. In fact the City Ordinance provides that: the Trustees must act “With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; “This is the same as Florida laws. This is an objective standard, and trustees are required to act in accordance with being familiar with such matters. This standard is applicable from the day they begin as a Trustee.

The amount of laws, documents and responsibility is daunting which is why, as you rightly point out that the state law requires education. However, and especially with a city that only allows for two year terms, the learning curve can take up the members’ entire term and more. Plans across the state recognize this and provide for those interested members to receive education. While there is no certainty that those trained go on to become trustees, especially in Sunrise, there are few people interested. In fact, for the Police Board, only one person, Darwin Arroyo, has attended the meetings and requested training. He has been outspoken in his desire to be a Trustee and may be one of a very few running, if not the only one, to replace the member that has resigned.

As you can see, nothing in your letter can constitute a “misuse of funds” and I would expect that the threats to hold the former Board members, who are all active dedicated and decorated police officers, (who volunteered their time) personally liable will be withdrawn. As of this writing, the two police elected trustees have resigned, there is no fifth member, and the remaining composition of the Board has been changed by city ordinance.

Sincerely,

*Richelle Levy*

Richelle Levy

cc. David Williams, Plan Administrator  
Board of Trustees, City of Sunrise Police Officers’ Retirement Fund