

## Meeting Minutes - October 10, 2006

The meeting of the Des Plaines Police Pension Board was called to order by President Chiaro at 9:10 a.m. in Room 101 of City Hall.

**Roll Call.** Present – Trustees Freeman, Marks, Muehlenbeck and Salas; President Chiaro.(5). Also present were board attorney Mathias Delort, paralegal Sara Gadola, annuitants Wendall Whitted and James Roel, and Board Financial Advisor Thomas McShane.

**Approval of Minutes.** Motion by Marks, seconded by Freeman, to approve the minutes of the June 13, 2006 meeting. Motion carried by unanimous voice vote.

**Disbursements.** The board reviewed the proposed disbursements. Motion by Salas, seconded by Freeman, to pay the disbursements as listed, totaling \$14,179.68. Ayes: Trustees Freeman, Marks, Muehlenbeck and Salas; President Chiaro (5). Nays: None. Motion carried, 5 - 0.

### **Attorney's Report.**

**SARKIS Case.** Attorney Delort advised the board that Judge Palmer had reissued the earlier order, granting an on-duty pension, and that the case was now back in the appellate court. The briefs of the pension board and city are due in late October.

**Roszkowiak Disability Application.** Attorney Delort advised the board that depositions of Drs. Tu and Lami were completed. The City has not yet decided whether it will depose the third doctor. The attorneys for the parties have agreed to not request a hearing pending resolution of the supreme court decision in the *Marconi* case.

**Recent Cases.** Attorney Delort reported on recent court decisions, summarized as follows:

- Buffalo Grove - pension board can deliberate in closed session notwithstanding provision of Pension Code allowing applicant to attend his hearing
- Frankfort - retired/disabled officers suing to recover full insurance benefits from village; Attorney Delort was requested to monitor this case for the pension board
- Murphysboro - pension board decision denying disability to firefighter who could not perform particularly strenuous tasks required of firefighters, on the basis that he could do many other functions of the job, was reversed and pension was granted
- Rockford - court could not require pre-1999 officer to sign QILDRO waiver to give ex-wife part of his police pension benefits
- Champaign - pension board can deliberate in closed session; board's decision that officer was not disabled was not against the manifest weight of the evidence; board not required to find officer disabled even though three doctors said he was, because other doctor said he was not disabled
- Northlake - officer's attempt to rescind his resignation failed
- Berwyn - pension board is not bound by prior decision of worker's compensation board on disability of officer
- Ottawa - pension board can hold fact hearing on what the amount of a retiree's pensionable "salary" is
- Waukegan - officer could not be discharged merely because of his disability, when the pension board had already placed officer on disability

**Sudan Legislation.** Attorney Delort also reported that a federal lawsuit has been filed to challenge the Sudan legislation. The case has been assigned to Judge Kennelly, and the Attorney General has asked the case be dismissed on a number of grounds. The Attorney General's motion is being briefed. The plaintiffs have

asked for an injunction to halt the operation of the statute before the January, 2007 trigger date. That motion is also being briefed.

**Old Business.**

**Light Duty Assignments.** The board reviewed a General Order issued by the Police Chief establishing light duty assignments. It was noted that these assignments may have an effect on disability applications.

**Actuarial Study/Tax Levy.** It was noted that the City still does not have a finance director. President Chiaro has been working with City staff to work out actuarial valuations to be used in computing the 2006 tax levy. Various interest rate assumptions are being considered.

**New Business.**

**Lalowski Disability Application.** The board noted receipt of an application for a disability pension from Officer Lalowski. The officer claims he has a psychological disability. Attorney Delort has compiled names of some physicians who could conduct an independent medical exam in this case. The consensus of the board was to authorize the Board President, on consultation with the attorney, to select three physicians from the list after obtaining more information regarding their experience in police psychiatric disabilities. It was noted that the City has moved to intervene in the Roszkowiak case but not yet in the Lalowski case. Attorney Delort also explained that the City of Sycamore was refusing to honor the board's subpoena for records regarding Officer Lalowski and that he was following up with the Sycamore City Attorney.

**New Officers.** The board noted for the record the entry of the following new officers:

<u>Name</u>	<u>DOB</u>	<u>Start Date</u>
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Ryan J. Borre	5/11/1983	9/25/2006
Andres J. Contreras	5/19/1983	9/25/2006

**Insurance.** It was noted that the board cannot obtain renewal of its insurance because the City's audit has not yet been completed. Attorney Delort has looked into this and was told by the City Manager that the audit will be ready by the end of October, which is also the end of the term of the current insurance policy. The board will look into getting a short extension to ensure continued coverage while the audit is being straightened out.

**Kujawa Benefits.** The board reviewed an opinion from the board attorney regarding the eligibility of Officer Kujawa's second wife for benefits if the current disability pension is converted to a retirement pension.

**Payroll Deductions.** The board was advised that the two Deputy Chiefs (Burton and Schneider) had too much deducted from their checks for the pension fund. A request was made for the pension fund to simply refund the money to the officers. This was declined, because the money would be taxable. Accordingly, the board will refund the excess contributions to the City, which will treat it as additional payroll and take proper withholding from it before disbursing the remainder to the officers.

**Accounting Reports.** The board reviewed the monthly financial statements from Lauterbach & Amen. Motion by Muehlenbeck, seconded by Freeman, to approve the statements for July and August, 2006, subject to audit. Motion carried by unanimous voice vote.

**Investment Report.** Thomas McShane of Wachovia Securities presented a report for the most recent quarter. He noted that representatives of McDonnell Securities would attend the December meeting to report on their activities. McShane is

working on updating the investment policy. Since the last meeting, about \$873,000 was transferred from the TCW small cap account to both the Great Lakes large cap account, and similarly to cash accounts. A small amount remaining in TCW, generated from dividends and the like, will be transferred, as well, to close the account. The board had terminated its relationship with TCW.

The fund's total assets as of the end of September were \$45,623,307, up about 3% from the last quarter. About 44% is in equities, 50% in fixed income investments, and 6% in cash/equivalents. The Dow Jones is at record levels, and the S & P is also performing well. The Federal Reserve may lower interest rates and the housing market is slowing down. The fund is slightly underperforming the benchmarks for the most recent quarter.

McShane reviewed the performance of each manager and explained data in his written report to the board members. McShane may recommend that the board divest the Pacific Life investments soon. If there is no injunction to halt implementation of the Sudan law, the fund will have to sell off other assets.

**Adjournment.** Motion by Muehlenbeck, seconded by Salas, to adjourn at 11:10 a.m. Motion carried by unanimous voice vote.

Approved:

Nick Chiaro

Chairman