

Meeting Minutes - October 18, 2005

The meeting of the Des Plaines Police Pension Board was called to order by Chairman Chiaro at 9:08 a.m. in Room 101 of City Hall.

Roll Call. Present – Trustees Freeman, Marks, Muehlenbeck and Chairman Chiaro (4). Absent: Salas (1). Also present were board attorney Mathias Delort and his associate Barbara Endoy, annuitant Wendall Whitted, City Finance Director James Egeberg, recording secretary Tina Whitted and Board Financial Advisor Thomas McShane.

Approval of Minutes. Motion by Marks, seconded by Freeman, to approve the minutes of the August 9, 2005 meeting. Motion carried by unanimous voice vote.

Disbursements. The board reviewed the proposed disbursements. Motion by Freeman, seconded by Marks, to pay the disbursements as listed, totaling \$8,852.13. Ayes: Trustees Freeman, Marks, Muehlenbeck, and Chairman Chiaro (4). Absent: Trustee Salas (1). Motion carried. Corrections on the amount due to Lauterbach & Amen were noted.

Attorney's Report. Motion by Chiaro, seconded by Marks, to approve rate increases as requested by the board attorneys in their recent correspondence. Motion carried by unanimous voice vote.

SARKIS Case. Attorney Delort reported that the City and pension boards had filed appeals of the order entered on June 7, 2005 by Judge Nowicki, reversing the board's decision to grant an off-duty, rather than on-duty, pension. The appellate court has granted a stay of Judge Nowicki's order. Accordingly, the pension board should continue to pay Sarkis at the 50% rate.

Attorney Delort reported on *Marconi v. Chicago Heights Police Pension Board*, in which the appellate court struck down the "three

doctor" rule as unconstitutional. The court stated that giving individual doctors veto power over a particular disability claim, with no avenue for the applicant to rebut the validity of that opinion, violated an officer's right to due process of law. The court also held that the pension board must consider whether an officer is disabled on the date of the filing of his disability application, not at the time of examination. A petition for leave to appeal has been filed with the Illinois Supreme Court.

He also explained a circuit court decision in *Howell-White v. Markham Police Pension Board*, in which a disability applicant was found not to have been legally hired as a police officer under Article 3 of the Pension Code and therefore was not qualified for a pension. He reviewed the Illinois Supreme Court's order in *Schullo v. Cicero Police Pension Board*, where the board disqualified a beneficiary due to his felony convictions. A newly-constituted board wanted to settle the case by granting the beneficiary a new hearing, but the court would not grant the parties' request for a remandment of the case.

Mr. Delort also reviewed the status of the new law permitting persons receiving IMRF benefits to transfer creditable service time to or from a police pension fund. Many individuals qualify for this benefit due to earlier service as a dispatcher, park district worker or in a similar position. The deadline to file with IMRF is January 1, 2006. Board staff stated that all officers had received the bulletin regarding these transfers.

Attorney Delort also reviewed information requested by the board at the last meeting regarding pending legislation in Congress to permit persons on government pensions to also collect full social security. Little progress has been made on those bills.

Martin Transfer of Service Credit. It was reported that Officer Martin no longer plans to return to the Town of Cicero police department and therefore wishes to proceed with his transfer of

service application. Attorney Delort explained that this prior application will be pulled from the file and new calculations done.

New Business.

Roszkowiak Disability. The board noted receipt of an application from Officer Roszkowiak for a disability pension. Attorney Delort reported he is in the process of obtaining medical information to determine how to proceed with IMEs, if any. Officer Marks stated that he witnessed the incident in question. Attorney Delort provided advice on handling that issue should it arise.

Annual Tax Levy. The board reviewed the proposed annual tax levy as determined by the city's actuary, Tim Sharpe, \$2,035,189, and by the Division of Insurance, \$2,713.730. Motion by Chiaro, seconded by Marks, to authorize the board attorney to send a letter to the Mayor requesting that the city levy \$2,035,189 in the 2005 levy ordinance for the police pension fund. Motion carried by unanimous voice vote. Chiaro asked whether the returns in these reports are net of fees. McShane responded that they were not, so the actual return numbers would be lower.

Financial Reports. Motion by Marks, seconded by Freeman, to accept the financial reports prepared by Lauterbach & Amen for August and September, 2005, subject to audit. Motion carried by unanimous voice vote.

Administrative Matters. It was reported that the computer equipment which was previously authorized is all in place. The board is still waiting for the bill from the employee who installed it.

The monthly benefit payouts for the fund are now about \$307,000. There is a standing authorization to transfer sufficient funds to fund the account at the appropriate level to make these payments as needed.

It was noted that there are several former officers who have never requested refunds, despite many requests. The board will continue to hold their funds as required by law.

The board's web site has been up and running for several months. Response from police officers and beneficiaries has been uniformly positive. Links will be added regarding retiree health care issues.

It was noted that the State of Illinois has passed a law following up on the Congressional enactment allowing retired officers to carry guns. There is a form for pension boards to execute, certifying that the officer is retired and not disqualified due to mental instability. These forms will be added to the board's official forms in the next round of changes.

Financial Report. Thomas McShane of Wachovia Securities reported on financial activities for the past few months. The first three quarters of the fiscal year have been difficult. The fund was up 2.04% vs. the index, which was only up 0.94%. He expects federal interest rates to increase another quarter percent and there is concern about the growing cost of oil.

The bond portfolio is managed by McDonnell, and it has an average maturity of 5 - 6 years. There is no significant volatility in the bond market presently. The fund's entire portfolio is invested 44% in equities, 52% in fixed income and 4% in cash, which is in line with state guidelines. There is also concern about the housing market and slower spending by consumers.

McShane distributed a written report and reviewed the performance of various investment advisers. Chiaro asked if the board should still monitor TCW. McShane agreed, noting that he is still concerned about a change in their portfolio managers and that some have left the company over the past two years. He still may be looking for alternative managers for that portion of the portfolio. McShane left the meeting at 10:45 a.m.

QILDRO Presentation. Barbara Endoy of Robbins, Schwartz, Nicholas, Lifton & Taylor, Ltd. presented information on QILDROs, the board's obligations to process them, and the changes made by Public Act 94-657. The board attorneys will provide a QILDRO form for posting on the board's web site as required by the new law.

Direct Deposit Rule. Chiaro requested that the board consider adopting a formal rule requiring all benefits to be paid by direct deposit. The board attorney responded that such a rule was novel, but probably permissible given the broad scope of the board's authority to adopt rules and regulations.

Adjournment. Motion by Chiaro, seconded by Marks, to adjourn at 11:23 a.m. Motion carried by unanimous voice vote.

Approved:

Nick Chiaro

Chairman