

Meeting Minutes - February 13, 2007

The meeting of the Des Plaines Police Pension Board was called to order by President Chiaro at 9:20 a.m. in Room 101 of City Hall.

Roll Call. Present – Trustees Marks and Salas; President Chiaro.(3). Absent: Trustees Freeman and Muehlenbeck. Also present were board attorneys Mathias Delort and Joseph Perkoski; annuitant Wendall Whitted; Deputy Chief William Schneider; Acting City Finance Director Robert Simpson; and Board Financial Advisor Thomas McShane.

Approval of Minutes. Motion by Salas, seconded by Marks, to approve the minutes of the December 12, 2006 meeting. Motion carried by unanimous voice vote.

Disbursements. The board reviewed the proposed disbursements. Motion by Salas, seconded by Marks, to pay the disbursements as listed, totaling \$13,532.42. Ayes: Trustees Marks and Salas; President Chiaro(3). Nays: None. Absent: Trustees Freeman and Muehlenbeck. Motion carried, 3 - 0.

Attorney's Report.

SARKIS Case. Attorney Delort advised the board that the City had requested yet another extension of time to file its brief in the appellate court. However, due to the large number of past extensions, the court order indicated this extension was "final".

Rozkowiak Disability Application. Attorney Delort advised the board that the medical records will be sent to a registered nurse to summarize. He had previously advised the attorneys that the board is ready to hear the case when they are, but has not heard back yet.

Lalowski Disability Application. Delort advised the board that the personnel records had been received from the City of Sycamore. Medical records and examinations are being compiled.

Schroeder Disability Application. Delort noted that his office was in the process of compiling medical records and that the board would later appoint physicians to examine him.

Held Disability Inquiry. Delort noted that a pregnant officer, Malia Held, had inquired about a potential disability pension. Delort explained that pregnant officers sometimes apply for disability pensions, and they are likely to be granted them as it is fairly clear that a pregnancy prevents an officer from performing many physical functions required of a police officer. In most cases, the officer is simply requested to obtain three certificates from her own doctors and the board holds a brief hearing to make a record of its findings. However, unless the officer returns to work voluntarily in a reasonable time, the officer would be required to return to the board after giving birth for a "show cause" hearing on why the disability pension should not be terminated.

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

Naperville - Illinois Appellate Court considered a case where a pension board made an oral "off duty" ruling and started paying the firefighter the pension. The firefighter appealed for an "on duty" pension, but that lawsuit was dismissed because only the board's written ruling was final and appealable. Delort noted that the case illustrated why it is important to issue a single written ruling and not make preliminary rulings or start paying benefits until the written ruling is completed.

Sudan Legislation. Attorney Delort also reported on the status of the federal lawsuit challenging the Sudan legislation. Arguments were heard on January 3, 2007 and Judge

Kennelly indicated he would have a ruling in a few weeks. However, no ruling has yet been issued. The board discussed that, if the law were upheld, there would need to be a special meeting to discuss divestment of various holdings to comply with the law. Delort also explained how the board should deal with the ruling if it were stayed or reversed by the appellate court.

IICLE Publication. The board received draft copies of Chapter 8 in the forthcoming 2007 edition of "Illinois Municipal Law" published by the Illinois Institute for Continuing Legal Education (IICLE). Attorney Delort wrote the chapter at the request of IICLE because the current handbook did not contain a chapter on police/fire pensions. The chapter is intended to be used by municipal, rather than pension, attorneys. Whitted made favorable comments on the chapter and noted that copies of the court decisions cited in the chapter have been printed and compiled for reference in the board's office.

Surviving Spouse Pension. Attorney Delort was asked about the situation involving an annuitant, who is expected to divorce soon. He explained that the judge considering the divorce case could divide up the retiree's pension, but that on his death, his ex-wife would not receive a surviving spouse's pension. Also, any new wife would not be eligible for a surviving spouse's pension because the marriage would be taking place after his separation from service.

Old Business.

H.E.L.P.S Retiree Act. It was noted that Lauterbach & Amen, the board's accountants, are awaiting further clarification from the IRS regarding implementation of this law with respect to insurance deductions made for the City's group plan. The City's plan is largely self-insured, and the IRS has so far taken the position that such deductions do not qualify for favorable tax

treatment. However, funds from across the country are seeking further review by the IRS on the point. Attorney Delort's office is monitoring the developments on this matter.

DOI Questionnaire. The board reviewed a questionnaire from the Division of Insurance regarding the Local Government Employees Benefits Continuation Act. The questionnaire will be completed by the board staff.

Purchase of Computers. It was noted that it would be necessary to increase the allotment previously authorized for the purchase of laptop computers. These computers will be used by board members to review voluminous medical documents scanned onto disks. Motion by Chiaro, seconded by Salas, to change the authorized expenditure for laptop computers and related equipment not to exceed \$13,000. Ayes: Trustees Marks and Salas; President Chiaro (3). Nays: None. Absent: Trustees Freeman and Muehlenbeck. Motion carried, 3 - 0.

New Business.

Ereno QILRDO. Attorney Delort reported on correspondence he handled regarding a potential QILDRO order on Officer Ereno's benefits. At this time, no final court order has been entered, so the board will await the receipt of further documents on this matter.

Digital Recorder. It was reported that the existing tape recording equipment is obsolete and inadequate to properly record several persons meeting in a large conference room. After some study, it was determined to purchase a digital recorder. Motion by Chiaro, seconded by Marks, to purchase a Marantz digital recorder and related equipment for a sum not to exceed \$1,000. Ayes: Trustees Marks and Salas; President Chiaro (3). Nays: None. Absent: Trustees Freeman and Muehlenbeck. Motion carried, 3 - 0.

Accounting Reports. The board reviewed the monthly financial statement from Lauterbach & Amen. Motion by Salas, seconded by Marks, to approve the statements for November, 2006, subject to audit. Motion carried by unanimous voice vote.

Board Attorney. The board noted that Attorney Delort had been named to the list of finalists for appointment to the position of Associate Judge in Cook County. Delort related that he first began handling pension board work in the late 1980's, when Jack Storm and Ken Randolph were on the board. He explained that many attorneys in his firm work on various pension matters and he ensured the board that there would be a smooth transition of the board's files if he became a judge. The installation day for the group of 31 new judges will be April 11, 2007.

By consensus, the board determined to hold a special meeting on March 20 to consider various pending issues such as the Sudan law implementation and possible disability hearings.

Investment Report.

Thomas McShane of Wachovia Securities presented a report for the last quarter of calendar year 2006. The fund had \$47,050,677 in assets at the close of December, up about \$1,400,000 from the close of the previous quarter. Overall, the fund was up 3.42% in the most recent quarter and 8.11% for the year. The current holdings are 49% in fixed income, 46% equities, and 5% cash.

McShane felt that the Federal Reserve was likely to lower interest rates in 2007 and that 10, 15 and 30-year bonds received a lot of overseas investment recently. Most bonds owned by the fund are in the 5-10 year maturity range. The bond market is confusing now, although investment in short-term bonds is preferred to long-term bonds. This is because it allows the board to change direction along with the market and the economy. The fund has seen high returns in the emerging markets but those markets are subject to rapid change.

McShane reviewed the performance of various managers. He recommended that the board look at rebalancing its equity holdings at the special meeting, as the fund was close to the 45% limit in those investments. The fund has not met some of the benchmarks, but this is not surprising because the benchmarks are not representative of the current market due to the proliferation of index funds. McShane voiced concern about TCW's poor performance.

McShane introduced Lindsey Vaughn of TCW to make a presentation before the board. It was noted that TCW has not performed well in the past three quarters. Vaughn distributed a report on TCW, and noted there were recent changes in TCW's management team. He reviewed the history of the fund's portfolio with TCW, and noted that the fund was down 13% when other managers were up 4%. TCW's investment philosophy is "concentrated"; it buys and then holds stocks for several years. Significant holdings in companies with declining value such as Ebay, Yahoo, Progressive Auto and Amazon contributed to the fund's performance. However, TCW continues to believe in the long-term viability of these companies. McShane questioned Vaughn about various investments held by TCW, including Progressive Auto. Questioned by McShane, Vaughn admitted that TCW was being outperformed by about 90% of other managers. Vaughn noted that Glen Bickerstaff was no longer a lead analyst for TCW and now only has an advisory role for this portfolio. Current managers include Greg Bloom and Steve Burlingham. Vaughn did not know how much of the main managers' personal assets were invested with TCW. He indicated that TCW remains optimistic of the long-term performance of its portfolio.

McShane recommended that TCW be kept on close watch and that the board review its status at each meeting. Board members agreed with this strategy.

Adjournment.

Motion by Chiaro, seconded by Marks, to adjourn at 11:46 a.m. Motion carried by unanimous voice vote.

Nick Chiaro

Chairman