

## Meeting Minutes - February 14, 2006

The meeting of the Des Plaines Police Pension Board was called to order by Chairman Chiaro at 9:02 a.m. in Room 101 of City Hall.

**Roll Call.** Present – Trustees Freeman, Marks, Muehlenbeck, Salas and Chairman Chiaro (5). Also present were board attorney Mathias Delort, annuitant Wendall Whitted, Recording Secretary Tina Whitted, and Board Financial Advisor Thomas McShane.

**Approval of Minutes.** Motion by Salas, seconded by Marks, to approve the minutes of the December 13, 2005 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 \$8,734.19. Ayes: Trustees Freeman, Marks, Muehlenbeck, Salas, and Chairman Chiaro (5). Motion carried.

**Attorney's Report.** It was announced that James Egeberg had left his position as City Finance Director to take a job with Rolling Meadows. The city's acting finance director is also going to take a position with Rolling Meadows.

**SARKIS Case.** Attorney Delort reported that the appellate court had granted the fourth request of the City's attorneys, Ancel Glink for an extension of time to file the City's brief. The pension board's brief was filed on time. Until the City's brief is filed by Ancel Glink, the case is at a halt, because Sarkis' reply brief is not due until some date after the City's brief is received.

**Martin Transfer of Service Credit.** The board noted receipt of a check for \$30,830.00 from the Cicero Police Pension Board for Brian Martin's transfer of service credit. Lauterbach & Amen will compute the balance Martin still owes for his portion of the transfer. Martin has since taken a job with the Bolingbrook Police

Pension Board. Once that amount is received, his new transfer to Bolingbrook can be processed.

**Roszkowiak Disability Application.** Attorney Delort reported that arrangements had been made for an independent medical examination of Officer Roszkowiak by Dr. Tu this week in Elmhurst. Dr. Tu has been provided with medical records received to date. The City has not yet responded to the subpoena for its own records. The board discussed hiring a nurse to review and abstract the medical records. It was informally determined to hold off that decision pending review of Dr. Tu's report. It was reported that the officer prevailed at a worker's compensation hearing against the City as to whether the injury was sustained on the job.

**Recent Cases.** Attorney Delort reported on *Dowrick v. Downers Grove Police Pension Board*, in which the appellate court ruled that a ruling regarding a firefighter's disability made by a fire and police commission did not bind a later decision by a pension board on the same issue.

**Legislation.** Attorney Delort also reported that there was a meeting on February 14 between Speaker Madigan, the Illinois Municipal League and others interested parties regarding a proposal to implement a DROP program. Delort explained that the legislative session would be shortened this year, so it was not likely much legislation would be enacted.

**Sudan Investments.** Delort also reported on Public Act 94-79, which prohibits pension funds from investing in various instruments involving the Republic of the Sudan. The law required the board to stop investing in these items as of late January, 2006, and further requires 60% of the board's assets to be "Sudan free" by January, 2007. The law is confusing and badly-drafted, and has resulted in a great deal of discussion in the governmental pension community regarding how pension funds

can reasonably comply with it. Delort indicated he had received communications from the attorneys for the state's major pension funds, such as IMRF, and there was no consensus yet on how to comply with the law. Many major companies, such as Coca-Cola, do business in the Sudan and virtually every mutual fund invests in some company which also does business there. There is some discussion about the law's constitutionality, given a recent United States Supreme Court decision, striking down a Massachusetts statute which prohibited transactions with Burmese companies. The Massachusetts law was invalidated on the basis that only the federal government, not the states, could implement foreign policy.

The board directed McShane to send letters to the board's various investment managers, instructing them to comply with the law and requesting certification of their compliance. The board decided to monitor developments regarding the law and reconsider its approach at future meetings.

**Zetek QILDRO Request.** The board received a request from attorneys representing Officer Zetek requesting QILDRO information. The board attorney responded to the request and provided the appropriate information.

**Transfers of Service Credit.** The board reviewed various pending transfer of service credit requests, as follows:

**R. Nieman.** IMRF has sent \$52,124.42 to the pension board to transfer Officer R. Nieman's prior IMRF service, which results in 42 months of additional creditable service.

**D. Nieman.** IMRF has sent \$17,662.71 to the pension board to transfer Officer D. Nieman's prior IMRF service, which results in 12 months of additional creditable service.

**Pavek.** IMRF has sent \$25797.70 to the pension board to transfer Officer Pavek's prior IMRF service, which results in 20 months of additional creditable service.

**McAllister.** IMRF has not yet provided Officer McAllister the calculations necessary to complete his transfer request.

**Ereno.** This is a new officer who started January 29, 2005. He is also awaiting calculations from IMRF.

The board accountants were instructed to amend the board records to reflect the additional creditable service. From a strictly computational standpoint, this will be done by backing up the officers' respective start dates on the computer system to a point which would result in them receiving the appropriate amount of creditable service.

### **New Business.**

**Resignations.** The board noted the resignation of Officer **Brian Martin** effective January 6, 2006.

**Surviving Spouse Benefit.** The board noted receipt of an application for surviving spouse benefits from **Dolores Lanham**. The application included her husband's death certificate and other necessary materials. By unanimous consent, Mrs. Lanham was awarded a surviving spouse benefit of \$2,868.47 per month, as computed by the board's accountants.

**New Officers.** The board noted applications for membership from **Robert J. Mulac, Jr.** (date of birth 9/11/78) and **Carlo R. B. Ereno** (date of birth 12/16/74). Both were sworn in on December 28, 2005. The applications were approved and ordered to be placed on file.

**Closed Session Minutes.** The board reviewed closed session minutes which had not yet been released for public

review. Motion by Salas, seconded by Marks, to not release any additional closed session minutes at this time, as the need for confidentiality still existed.

Ayes: Trustees Freeman, Marks, Muehlenbeck, Salas, and Chairman Chiaro (5). Motion carried. It was noted that there are no tape recordings of closed sessions which are 18 months old and thus eligible for destruction.

**Annual Affidavits from Beneficiaries.** It was announced that all but nine (9) beneficiaries had returned their annual affidavits. These affidavits are due March 1.

**Accounting Reports.** The board reviewed the monthly financial statements from Lauterbach & Amen. Motion by Marks, seconded by Freeman, to approve the statements for November and December, 2005, subject to audit. Motion carried by unanimous voice vote.

**Signatures on Accounts.** It was noted that James Egeberg was no longer serving as the ex-officio City Treasurer. Timothy Sloth is acting treasurer. Attorney Delort reminded the board that the signature of the City Treasurer was always required on disbursements and accounts held by the pension board. However, Mr. Sloth is also leaving city employment soon. As a stop gap measure to ensure continuity, Trustees Marks and Salas were authorized to co-sign disbursements in the absence of a city treasurer.

**Investment Report.** Thomas McShane of Wachovia Securities presented two detailed written reports. First, he presented a capital market review. This report indicated that international markets did particularly well in the past year. Mid cap stocks did well, but not quite as well as international investments. Bonds, T-bills and similar instruments were the least favorable.

Second, he presented a review of the board's own investments. The current assets are \$46,016,654, up 1.82% over the last quarter, versus the index of 1.19%. The equities were up 3.16% versus the index of 2.09%, and the fixed income assets were up 0.76% versus the index of 0.67%. Of the nine managers, six outperformed the index. Since monitoring began in 1996, the fund underperformed the index by 65 basis points, but this record was the result of the fact that the fund took less risk in its investments. McShane expressed confidence in the current fund managers. When asked about TCW, he responded that they were being watched for possible replacement, but that the board should hold off any action for now depending on resolution of the Sudan investment issue.

McShane stated that Lord Abbett wished to resign as a fund manager due to its unwillingness to comply with the new Illinois Sudan investment standards. Lord Abbett currently invests about \$6,000,000 for the fund at a fee of 72 basis points. They are willing to withdraw at a mutually convenient date. McShane reviewed several potential replacement managers in depth, and presented an analysis of their qualities based on rate of return, risk and volatility. Because of uncertainty as to whether any particular manager might also have difficulties with Sudan investments, McShane asked the board to select three preferred managers in rank order so that at least one would be available to take over the portfolio.

Trustee Salas favored Davis, Great Lakes and Metro West. Trustee Marks favored Metro West as a first choice. Chiaro agreed with that group of three, noting that Great Lakes had an exceptional record in capturing the upside market.

Motion by Chiaro, seconded by Salas, to select Metro West, Great Lakes and Davis, in that order to replace Lord Abbett. McShane concurred with this grouping. Motion carried by unanimous voice vote.

**Election of Trustees.** It was reported that the board's rules had changed to require an all-mail ballot. Applications for candidacy from active members were received from Larry Marks and Jim Salas; an application from beneficiaries was received from Nick Chiaro. Applications must be received by February 25. Ballots will be counted by April 15.

**Adjournment.** Motion by Chiaro, seconded by Salas, to adjourn at 11:17 a.m. Motion carried by unanimous voice vote.

Approved:

Nick Chiaro

Chairman