

Meeting Minutes - April 11, 2006

The meeting of the Des Plaines Police Pension Board was called to order by Vice-Chairman Salas at 9:00 a.m. in Room 101 of City Hall. It was noted that Chairman Chiaro was ill and could not attend the meeting.

Roll Call. Present – Trustees Freeman, Marks, Muehlenbeck and Salas. Absent - Chairman Chiaro (1). 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 Freeman, to approve the minutes of the February 14, 2006 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 \$12,226.85. Ayes: Trustees Freeman, Marks, Muehlenbeck and Salas (4). Absent - Chairman Chiaro (1). Motion carried.

Investment Report. Thomas McShane of Wachovia Securities reported that negotiations were underway with Great Lakes Advisors to replace Lord Abbett. Great Lakes will provide a certificate of compliance with the new Sudan investment law. The other company under consideration would not provide such a certificate and was accordingly removed from consideration. McShane and attorney Delort have been working on the contract with Great Lakes.

McShane also announced that since Wachovia had been retained by the fire pension board, Wachovia would reduce its fees for the police pension board from 9 basis points to 7.5 basis points.

McShane presented a report for the first quarter of 2006. The fund's total assets are \$45,401,374, the highest ever, up from \$44,016,653. Since 1996, the fund has increased in value about 6% per year despite significant withdrawals to pay pension benefits.

Board members voiced concern that the city's tax levy was based on an assumed rate of return that was higher than the rate the board actually was able to achieve in the marketplace, resulting in a lower levy than needed. This will be the subject of future discussions by the board.

The board was given an overview by McShane. The fund currently has 46.8% of its assets in equities. Manager Fayez is underperforming and is under constant review by McShane. All managers have been sent a request that they submit certificates of compliance with the Sudan investment law.

Attorney's Report.

Sarkis Case. Attorney Delort reported that the City of Des Plaines' attorneys had not filed an appellate brief despite being granted about four extensions of time. Before the last extension of time expired, the City filed a motion challenging the finality of the order entered by the circuit court, on the basis that the circuit court could not simply grant an on-duty pension but should have remanded it back to the pension board with an order that the pension board grant such a pension. This is a highly technical point of administrative law, and attorney Delort believed it was unnecessary because the administrative review law gives the court the authority to enter such an order. Nonetheless, the appellate court granted the city's motion without explanation, and the case will remain in circuit court for entry of such an order. The pension board will then have to comply with the order and then the case can be duly appealed.

Martin Transfer of Service Credit. The board noted correspondence showing that Brian Martin's transfer of service credit from Cicero to Des Plaines was complete. The board will now await his request to transfer time from Des Plaines to Bolingbrook. Attorney Delort explained that Lauterbach & Amen artificially "back up" the Des Plaines start date for officers who have transferred time into this fund so that the computations will work out accurately on their computer system.

Areno IMRF Transfer. The board noted correspondence regarding this officer's request to transfer IMRF time. He was a CSO in Mt. Prospect for six years and was hired by Des Plaines on 12/28/2005, just before the deadline for application for IMRF transfers. The board staff will send the IMRF letter to the board accountants for processing.

Roswiniak Disability Application. Attorney Delort presented the City of Des Plaines' motion to intervene in this case, along with the response filed by the officer's attorney. Delort explained that he had directed the City's attorney to work out a briefing schedule with the officer's attorney so that the officer's attorney could present his arguments in time for today's meeting. Apparently, the City's attorney did not do so, because the officer's attorney called Delort on April 10 inquiring about the status of the City's motion. The officer's attorney then scrambled to file a response before the close of business on April 10. The board members reviewed the motion and response. By agreement, neither side appeared at this meeting to argue the motion orally. Board members expressed a preference that the City should be allowed to intervene in disability cases, so that both sides of any contested issues were fairly presented, notwithstanding any legal arguments that the City was precluded from doing so by previous workers' compensation decisions.

Motion by Salas, seconded by Marks, to grant the City's motion to intervene. Motion carried by unanimous voice vote.

Motion by Salas, seconded by Marks, that the pension board send the officer for two additional independent medical exams, to make up the three required by statute, with the doctors chosen by the board chairman on recommendation of the board attorneys. Motion carried by unanimous voice vote.

Recent Cases. Attorney Delort reported on *Lynch v. City of Waukegan*, in which the appellate court ruled that a disabled firefighter could not be fired merely because of his disability.

Sudan Legislation. Attorney Delort also reported that there has been no legislative "fix" to the Sudan legislation. Vendors are coming forth with Sudan-free mutual funds. He also explained that his sources reported that there will be no movement on a DROP program in Springfield this year. The legislature is already past its planned adjournment date, and is merely working on budgetary matters now. However, nothing is final until the session officially adjourns.

Annual Affidavits of Eligibility. Annual affidavits of eligibility submitted by beneficiaries were received and filed. Only two have not yet been received. However, on further investigation, it was determined that these two were included with the respective beneficiaries' ballots and will be filed when the ballots are opened at a later date. It was also noted that annual disability certificates will be sent out shortly.

NAPPA Membership. The board discussed a request that the board attorney join the National Association of Public Pension Attorneys, in order to receive the information and publications issued by that association. Motion by Salas, seconded by Freeman, to authorize an annual allotment of \$500.00 to the board attorney to subsidize membership and/or conferences sponsored by NAPPA. Ayes: Trustees Freeman, Marks, Muehlenbeck and Salas (4). Absent - Chairman Chiaro (1). Motion carried.

Retirements. The board noted information regarding the impending retirements of **Commander Loewe**, effective April 21, 2006, and **Sgt. Parkhill**, effective May 22, 2006. The board accountants will prepare benefit calculations for approval at the next meeting.

Retroactive Pay. It was noted that the City is in arbitration regarding the police contract and that the final contract might not include retro pay. Past practice of the Pension Fund has provided that benefits payable to newly-retired officers was recalculated to include retro pay awarded under new contracts which came into force after their retirement. The Board indicated that this practice would continue.

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

Adjournment. Motion by Salas, seconded by Freeman, to adjourn at 10:20 a.m. Motion carried by unanimous voice vote.

Approved:

Nick Chiaro

Chairman