

Meeting Minutes - April 14, 2009

The meeting of the Des Plaines Police Pension Board was called to order by President Chiaro at 9:05 a.m. in Room 101 of City Hall in Des Plaines, Illinois.

Roll Call. Present: Trustees Muehlenbeck, Neil, and President Chiaro (3). Absent: Marks and Niemann (2). Also present were Annuitant Wendall Whitted, Annuitant James Roel, Board Financial Advisor Thomas McShane, City of Des Plaines Director of Finance, Dorothy Wisniewski and Board Attorney, Joseph Perkoski.

Approval of Minutes. Motion by Neil, seconded by Muehlenbeck, to approve the February 10, 2009 regular meeting minutes. Motion carried by unanimous voice vote.

Disbursements. The Board reviewed the disbursements as identified in the April 14, 2009 warrant list #14 in a total amount of \$4,626.49. Motion by Muehlenbeck, seconded by Neil, to approve the disbursements as identified in the April 14, 2009 warrant list #14 in a total amount of \$4,626.49. A roll call vote taken. Ayes: Trustees Muehlenbeck, Neil and President Chiaro (3). Nays: None (0). Motion carried: 3-0.

Board Attorney's Report

Attorney Perkoski provided the Board with a legal update. Attorney Perkoski reported that Jason Roszkowiak had filed an application for disability benefits but had not filed the required medical certification. Without the medical certification, the application cannot be processed. Attorney Perkoski also reported that he is in contact with the City of Des Plaines concerning the pending workers' compensation claim filed by Jason Roszkowiak. There is also a possibility that the City of Des Plaines is considering creating a light-duty position. If a light-duty position is created, it would have an impact upon Roszkowiak's ability to proceed with a disability application.

Attorney Perkoski discussed Public Act 96-0006 which amends the Illinois Governmental Ethics Act to impose additional obligations on

pension board trustees. The new Act affirms that the pension board trustees are to complete and file a verified written statement of economic interest annually. Attorney Perkoski shared with the Board the standard statement of economic interest document to be filed with the clerk. The Board will acquire the executed forms from each trustee and forward same to Attorney Perkoski for filing with the county clerk. Attorney Perkoski also discussed additional pending legislation including the following:

- HB 0965 which amends Article 3 of the Pension Code to allow an annuitant to re-enter service for a total of two years to fill a position vacated because persons are serving on active duty in the military, navel or air forces of the state or federal government without impairing the annuitant's pension benefits. The bill was sent to the House Rules Committee on March 13, 2009.
- SB 0250 which amends Article 3 of the Pension Code to allow a municipality to appear as a matter of right at any proceeding involving a participant or beneficiary that might result in a final administrative decision by the pension board. The bill is pending a second reading in the Senate.
- HB 0549 which amends the Public Safety Employee Benefits Act definition of "catastrophic injury" as a grievous or serious injury or impairment of nature that is sufficient to permanently preclude the injured employee from performing any gainful work. The bill provides that an employer may, at its expense, require an employee seeking benefits under the Act to submit to an examination by up to three licensed physicians. The determination of whether a catastrophic injury has occurred shall be made by the employer's designee and subject to review under the administrative review law. The bill was sent to the House Rules Committee on March 13, 2009.

Attorney Perkoski also discussed two recent case decisions concerning police pension matters. The first is the Illinois Supreme Court's decision in *Roselle Police Pension Board vs. Village of Roselle*. Here the Court affirmed the decision the appellate court holding that the surviving spouse of a officer who had received a "line of duty" disability pension and annual increases of 3% due to being age 60, was only eligible to receive the amount of disability pension as of the date of death and was not eligible for annual increases to the pension amount.

Attorney Perkoski also discussed the Illinois Appellate Court's decision in *Kosakowski v. Board of Calumet City Police Pension Fund*. Here the Appellate Court clarified when a pension board may change a pension amount in the case of an "error". In this case, the pension board sought clarification from the Department of Insurance as to the correct salary amount upon which to base a line of duty disability pension. The Department of Insurance advised that the board that it had used the wrong salary and the Board sought to change the pension amount. The court determined that the Department of Insurance may advise and make recommendations to the pension fund, but the pension fund is not mandated to follow or adopt the Department of Insurance recommendations. In this case, the Board's calculation was mathematically correct, based upon the salary it used, and therefore, no error occurred. Because no mathematical error occurred, the award could not be modified.

Attorney Perkoski also discussed the status of Annuitant John Stephens. Stephens was married before his retirement but had adopted a child after his retirement. Stephens recently divorced his spouse in Las Vegas, Nevada where he resides. Stephens is reportedly dying of cancer. Stephens's ex-wife is now making inquiries concerning the status of his pension benefits. This matter raises the issue of the change in the adoption amendment to Article 3. As discussed, Article 3 was recently amended to ensure that adopted children were accorded the same status as natural children with respect to pension benefit entitlement where the adoption occurred after the conclusion of active service. At issue is whether the amendment to Article 3 of the Pension Code is retroactive to adoptions which occurred before the passage of the Act. Attorney Perkoski is reviewing this matter and will report to the Board accordingly. Attorney Perkoski also discussed questions addressed by former Police Chief Joe Kozenczak who has also posed questions concerning the status of his adopted child. Attorney Perkoski will also follow-up concerning that matter.

Old Business.

Ratification of Payment to Coalition for Qualified Plan Status. The Board discussed affirmation of the action taken at the February 10, 2009 meeting approving the \$400.00 disbursement to participate in the Coalition for Qualified Plan Status. Motion by Neil, seconded by Muehlenbeck, to affirm the action disbursing \$400.00 to participate in the Coalition for Qualified Plan Status. A roll call vote taken. Ayes: Trustees Muehlenbeck, Neil and President Chiaro (3). Nays: None (0). Motion carried: 3-0.

New Business.

a) Application for membership for Officer Gregory Parkhill. The Board discussed and accepted the application for membership from Officer Gregory Parkhill. Parkhill's start date with the department is March 30, 2009.

b) Active member election results. The results of the active member election to fill the vacant trustee spot created by the resignation of James Salas were read. Thirty-six ballots were returned of which 33 were determined to be valid. Three ballots were eliminated based on the absence of signatures. Cdmr. Daniel Niemann received 32 of the 33 correct ballots.

c) Report on Annual Affidavit Compliance. The annual affidavit compliance process has been completed.

d) Approval of Revisions to Investment Policy and Rules and Regulations. Attorney Perkoski discussed the process for the additional revisions to the Board's Rules and Regulations and the Board's Investment Policy necessitated by the adoption of HB 5088. Attorney Perkoski noted that the recommended changes to the Investment Policy have been minimized with most of the additions to comply with HB 5088 appearing in the amended Rules and Regulations. The Board reviewed both the revised Rules and Regulations and the Investment Policy Statement. Motion by Neil, seconded by Muehlenbeck, to approve the revised Rules and Regulations. A roll call vote taken. Ayes: Trustees Muehlenbeck, Neil and President Chiaro (3). Nays: None (0). Motion carried: 3-0.

Motion by Muehlenbeck, seconded by Neil, to approve the revised Investment Policy. A roll call vote taken. Ayes: Trustees Muehlenbeck, Neil and President Chiaro (3). Nays: None (0). Motion carried: 3-0.

e) Approval of Lauterbach & Amen Balance Sheets for December 2008, January and February 2009. The Board discussed the Lauterbach & Amen balance sheets for December 2008, and January and February 2009. Motion by Muehlenbeck, seconded by Neil, to approve the Lauterbach & Amen Balance Sheets for December 2008, as well as January and February 2009. A roll call vote taken. Ayes: Trustees Muehlenbeck, Neil and President Chiaro (3). Nays: None (0). Motion carried: 3-0.

Financial Report. Investment Advisor, Thomas McShane, provided the Board with the Fund Portfolio to date and Financial Advisor's Report. McShane distributed the Des Plaines Police Pension Fund First Quarter 2009 portfolio document. McShane noted that March 2009 was a great month for the market but that volatility continues to exist. McShane noted that there are numerous indications that investors are beginning to again embrace risk. McShane discussed the portfolio statement depicting the performance of the trailing twelve months ending March 31, 2009. For March 2009, the Fund value is up approximately 5% to a total of \$41,906,549. A copy of the portfolio statement for the trailing twelve months ending March 31, 2009, is attached hereto as Exhibit A. For the quarter, McShane noted that the Fund performance is -2.78% which did outperform the custom benchmark which is -5.41% for the quarter.

McShane further discussed the document depicting total fund performance for the period from December 31, 2002 through March 31, 2009. A copy of the Total Fund Performance for the time period noted and attached hereto as Exhibit B. A discussion ensued based on President Chiaro's question as to whether the Fund should increase its holdings in small caps stock. McShane noted that small caps do tend to improve in performance roughly six months before the end of a recession. McShane noted that while market was moving close to this point, he was not ready to fully commit quite

yet to small caps. McShane then discussed his recommendation for the reallocation of the assets. McShane noted that he is now much more comfortable with respect to making reallocation moves given the positive signs in the market. McShane recommends direction from the Board to move \$300,000 a month from the Fund's fixed income investments and to place \$100,000 of that amount in SG Capital and \$200,000 of that amount into an S&P 500 index fund. The Board indicated its direction regarding McShane's recommendation. The Board will review the recommendation at its June 2009 meeting.

Adjournment. Motion by Neil, seconded by Muehlenbeck to adjourn at 11:04 a.m. The motion was carried by unanimous voice vote.

Approved:

Nick Chiaro
President