

Meeting Minutes - August 8, 2006

The meeting of the Des Plaines Police Pension Board was called to order by President Chiaro at 9:10 a.m. in Room 101 of City Hall. It was noted that Trustee Marks was on duty and would arrive late.

Roll Call. Present – Trustees Freeman, Muehlenbeck, Salas and President Chiaro. Absent - Marks (1). Also present were board attorneys Mathias Delort and Joseph Perkoski, annuitant Wendall Whitted, Recording Secretary Tina Whitted, and Board Financial Advisor Thomas McShane.

Approval of Minutes. Motion by Muehlenbeck, seconded by Freeman, to approve the minutes of the June 13, 2006 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 \$14,236.81. Ayes: Trustees Freeman, Muehlenbeck, Salas and President Chiaro (4). Nays – None. Absent – Marks (1). Motion carried.

Attorney's Report.

Sarkis Disability Case. Attorney Delort reminded the board that it had previously denied Officer Sarkis an on-duty pension but granted him an off-duty pension. He noted that the officer appealed, that the circuit court reversed the board and granted him an on-duty pension. Both the City and the pension board then appealed to the appellate court. The appellate court found that the circuit court's order was not final, so it was sent back to the circuit court for entry of a final order. The circuit court has now entered such an order, and both the City and pension board have again appealed. Under the briefing schedule established by court rules, the last brief will be filed in late December unless a

party receives an extension. However, most of the briefs have already been written so extensions are unlikely to be requested.

Roszkowiak Disability Case. Attorney Delort reported that the evidence deposition of Dr. Lami was conducted at his Schaumburg office last week. The doctor adhered to his opinion that the officer was not disabled despite lengthy cross-examination by the applicant's attorney. The next deposition will be taken on August 9 in Chicago. The City's attorney is seeking authorization to depose Dr. Rinella, who found that the officer was disabled, so that all three doctors' opinions will be presented with equal footing. The attorneys involved have agreed that the case should not be completed until the Illinois Supreme Court rules on the Marconi case, but that is subject to change if the court does not issue an opinion promptly. The board noted a 1994 General Order from Chief Sturlini which it recently obtained stating that the police department had a light duty policy.

Recent Cases/Legislation. Attorney Delort summarized a recent decision of the circuit court in Will County overturning a pension board's denial of a disability pension. He also noted that a new law requires that county tax officials send fire pension tax levy proceeds directly to the fire pension fund instead of the city. He alerted Tom McShane to this and requested that McShane provide transfer information so that Cook County would implement this immediately for the fire pension fund. Delort felt that a similar law would be passed next year for the police levy.

Sudan Legislation. Attorney Delort reported that a lawsuit was filed yesterday by a number of Illinois pension boards and several annuitants challenging the legality of the new Sudan investment law. The case is pending in federal court in Chicago and has been assigned to Judge Kennelly. The plaintiffs will seek injunctive relief to halt the effect of the law before the January, 2007 trigger date.

Speaker Madigan Request. McShane asked if the board had received an inquiry from Speaker Madigan's office regarding divesting funds from banks which engage in predatory lending. Delort responded that several of his clients had passed the inquiry along to him for handling, but that no boards felt the need to take action on it.

Trustee Marks arrived at 9:45 a.m.

New Business.

Review of Closed Session Minutes. Attorney Delort explained that the board must review minutes of closed sessions every six months to determine which, if any, may be released for public review. There are three sets of minutes, all dealing with disability cases. The attorney felt that they should remain confidential at this time. He also mentioned that the tape recording of the February, 2005 session could be destroyed now that 18 months had passed. Motion by Muehlenbeck, seconded by Chiaro, to keep the three sets of minutes closed to public review, as the need for confidentiality still existed, and not to destroy any tape recordings at this time. Ayes: Trustees Freeman, Marks, Muehlenbeck, Salas and President Chiaro (5). Nays - None. Motion carried.

Applications for Membership. The board reviewed applications for membership for the following new officers:

Thomas Boniak - 6/28/2006

Brian Hart - 6/28/2006

Michael Oppengard - 6/28/2006

Martin Reutimann - 7/18/2006

Andrew Sraga - 6/28/2006

Motion by Salas, seconded by Freeman, to receive and file the applications. Motion carried by unanimous voice vote.

Resignation. The board noted the following resignation:

Robert Mulac, Jr. - 12/28/2005 – 6/15/2006

Motion by Freeman, seconded by Muehlenbeck, to receive and file the resignation of Officer Mulac, and to refund his contributions of \$2,119.02 as requested, less required taxes, for a total payment of \$1,695.22. Ayes: Trustees Freeman, Marks, Muehlenbeck, Salas and President Chiaro (5). Nays - None. Motion carried.

Retirements. The board noted applications for retirement benefits as follows; benefit amounts were computed and verified by the board accountants:

Thomas Rembacz - 7/31/2006 - \$65,391.00/year

Richard Czyzewski - 8/28/2006 - \$54,690.00/year

Motion by Salas, seconded by Marks, to award retirement pensions as stated above. Ayes: Trustees Freeman, Marks, Muehlenbeck, Salas and President Chiaro (5). Nays - None. Motion carried.

Accounting Reports. It was announced that Lauterbach & Amen had changed its monthly accounting reports to provide more detailed and useful information. The firm was commended for these changes which the board found to be quite helpful. Benefit checks now include a stub showing additional information and beneficiaries have been pleased with this change. The board reviewed the monthly financial statements from Lauterbach & Amen. Motion by Muehlenbeck, seconded by Freeman, to approve the statements for May and June, 2006, subject to audit. Motion carried by unanimous voice vote.

Annual Division of Insurance Report. The annual DOI report was prepared by Lauterbach & Amen, executed by the appropriate board officers and Acting City Treasurer Simpson, and transmitted to DOI in a timely manner.

Refunds. It was noted that former officer Matt Laprell still had not requested a refund of approximately \$18,000 in payroll deductions which he left in the fund. Board staff will try to locate him, possibly in Phoenix, Arizona, to make sure he is aware of his right to a refund.

Officer Kujawa. It was noted that Officer Kujawa's pension has been claimed by several of his ex-wives. The officer married for a third time after he went on disability. He will eventually turn 50 and may ask to convert the disability pension to a retirement pension. The board accountants ran various financial scenarios to demonstrate that each option (conversion or non-conversion) was more lucrative at different times. However, a retirement pension might be converted to a surviving spouse's pension after his death and would provide compounded raises after age 55. The attorney was asked to look into whether his surviving (current) spouse might be able to obtain such a pension even though they were married after he began receiving a disability pension.

Actuarial Study/ Tax Levy. The status of the board's annual actuarial study was discussed. Now that the DOI report has been filed, the DOI will supply its own actuarial figure for a suggested tax levy. Board staff will contact actuary Tim Sharpe to run his own calculations, using several different rate of return assumptions. The board may have a special meeting with the City's new financial staff to review the City's tax levy history and these assumptions with the board's historic rate of return, which has not always been as high as the assumed rate due to unfavorable market conditions.

Insurance. Attorney Glover has been working with board staff regarding renewal of the board's insurance policies which are due in October. The application cannot be processed at this time due to the failure of the City to complete its own audit, which in turn is the result of short-staffing of the City financial offices. Attorney Delort reminded the board to secure renewal of this policy on time.

IPPFA Seminar. Board members received a report on the recent seminar held by the IPPFA in Bensenville. Topics discussed included the Sudan legislation and maintenance of board records.

Investment Report. Thomas McShane of Wachovia Securities reviewed recent trends in the capital markets. The last quarter was not a favorable one for the stock market, resulting in some losses to the fund's portfolio. There were few, if any, favorable markets in the most recent quarter. While the Dow Jones average was up, most stocks were actually down. For the latest year, the S & P 500 Index was up 8.6%, and the Russell 2000 Index was up 14%. McShane felt that stocks were a good investment at this time because they have underperformed lately. Businesses have a lot of cash now which will keep the economy rolling; large companies are the beneficiaries of this spendable cash. McShane believes that the Federal Reserve will increase interest rates and that will help stop inflation, but that the price of oil is pushing up the cost of doing business in general. Stocks are at the lower end of the trading range. McShane prefers large cap stocks at this time. The bond market is not as favorable.

For the latest quarter, the fund began with \$45,401,000. Withdrawals were \$267,000, income was \$415,000, and investment losses were \$923,000. Net earnings were a loss of \$507,000 resulting in an ending balance of \$44,626,000. Overall, the fund was down 1.1% which was better than the benchmark of a 1.24% loss. Equities were down 2.6% versus the benchmark of 1.44%. However, the fund exceeded the

benchmark on a year-to-date basis even though bonds held the fund back. For the last 12 months, the fund was up 5.1% versus a benchmark of 3.8%. The portion of the fund in equities was just below 45%.

McShane reviewed various segments of the fund's portfolio handled by various investment managers. He recommended that the fund terminate the services of small cap manager TCW. He stated that TCW had a high turnover rate of actual employees handling the account which caused a lack of continuity and consistency as well as a change in focus and philosophy. Chiaro noted that TCW had not performed well over the last five years. McShane agreed that TCW's performance was another reason supporting his recommendation. McShane recommended that the TCW funds be split evenly between cash and the Great Lakes large cap managed account.

Motion by Chiaro, seconded by Salas, to terminate TCW and distribute the proceeds of the account as follows: 50% to cash and 50% to the Great Lakes large cap managed account. Ayes: Trustees Freeman, Marks, Muehlenbeck, Salas and President Chiaro (5). Nays - None. Motion carried.

Wolf Popper Proposal. Attorney Delort requested the board's input on entering into a contract with Wolf Popper to review the fund's stock portfolio and appear on its behalf in class action cases. Board members commented that the fund already had sufficient checks and balances in place to review its stock holdings and that the fund had little to gain from entering into the contract. The board reached a consensus not to enter into a contract with Wolf Popper at this time.

Adjournment. Motion by Salas, seconded by Freeman, to adjourn at 10:47 a.m. Motion carried by unanimous voice vote.

Approved:

Nick Chiaro

Chairman