



Minutes
Firefighters' Pension Plan Board of
Trustees

Monday, June 15, 2015

3:00 PM

2nd Floor Conference Room

Special Hearing

1. CALL TO ORDER:

Meeting was called to order at 3:05 p.m.

2. ROLL CALL:

Present: 5 - James Koczan
Kurt Vroman
John Fleemin III
Janet Deyette
Gene Gizzi

3. APPROVAL OF MINUTES & AGENDA:

Chairman Koczan stated there were no minutes submitted for approval. He stated there were two (2) additions to the agenda and he listed the items: Consent Approval of Expenditures under Item 7B and Request for Travel by Kurt Vroman under Other Submissions Item 7C . Chairman Koczan asked for a motion to approve these additions to the agenda under New Business. Mr. Fleemin asked to also add Discussion on Senate Bill 172 and Chairman Koczan stated if the Board wanted to add this time permitted, it could be added as Item 7D for the Plan Attorney to comment.

Motion made by Member Vroman, seconded by Member Deyette, that Items 7B and 7C be added to the agenda under New Business was approved. The motion carried unanimously.

For: 5 - Koczan, Vroman, Fleemin III, Deyette and Gizzi

Mr. Fleemin asked that discussion of Senate Bill 172 be added to the agenda. Chairman Koczan stated it could be added for discussion under New Business Item 7D time permitting. He asked if there was a motion.

Motion made by Member Vroman, seconded by Member Fleemin, that Item 7D be added to the agenda under New Business was approved. The motion carried unanimously.

For: 5 - Koczan, Vroman, Fleemin III, Deyette and Gizzi

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

Plan Member Christine Gallagher asked about the status of her paperwork for DROP and after a brief discussion it was determined there was knowledge of email correspondence between Lisa Spriggs and Susan Helberg regarding this matter and that deductions from Ms. Gallagher's pay had ceased and that it was just taking time to do the calculations. It was recommended she check with Ms. Helberg.

6. OLD BUSINESS:

7. NEW BUSINESS:

A. Disability Hearing.

Mr. Christiansen laid out for the Board Members the procedures and the criteria the Board has to use in making the decision to grant or deny the disability pension and lastly the Board will go over the documentation in connection with this case. He stated Mr. Morgan acknowledges that the records will become public record once they are put before the Board at the hearing today and a member of the public could come in and request to review the records used by the Board in making its decision after today's hearing. He stated Mr. Morgan gave authorization to Mr. Christiansen's office to directly collect the records from the health care providers, personnel records from the City including Workmen's Compensation Claims pertinent to the case and a job description. He stated once all the records are received by his office his office typically would set up an independent evaluation with a doctor who has expertise in this type of claim and supply all the records to that doctor, the Board Members and the claimant for review. He stated upon the claimant's review of the records if anything is missing the claimant has the right to provide supplemental additional documents if he wishes. He stated this is the initial hearing and the Board will only consider the records provided and if the claimant were here he or she would have an opportunity to comment on the records. He stated his office was informed today that the claimant is in the hospital and is unable to attend. He stated based on what he has read he thought there may be a chance that the Board may be granting this request for disability pension and rather than postpone the hearing for another month or so he thought it would be appropriate to have this hearing today and if the request is granted today he is sure the claimant will not object. He stated if the

Board decides it is not sure and wants to consider denying the claim the Board can continue the hearing today and give the claimant an opportunity to come in and comment on the records. He stated today the Board is going to look at the records and determine whether the records collected meet or have a basis for establishing each of the criteria in the Plan for granting or denying the disability pension and the Board has three (3) choices; (1) find that each of the criteria has been established by the records that have been collected and if so the Board can make a motion to grant disability and if the motion passes it is over; (2) if the Board finds one (1) or more of the criteria has not been established by the records collected the Board may make a motion to deny disability or (3) recess the hearing today and come back at a future date. He stated if the Board chooses to deny the claim the claimant has the right to ask for a formal evidentiary hearing and in between the hearings the claimant can go out and gather additional evidentiary information to establish the criteria the Board had determined was not established in the initial hearing. He stated the formal hearing is different and the rules are different; we would have the records that were collected plus any additional records or affidavits that were collected by the claimant and the Board can hear live testimony from doctors, physicians and the claimant. He stated at the formal hearing the Board can either grant or deny the disability and if the disability is denied at this hearing the claimant's only recourse would be to request an appellate review of the case records that came before the Board to determine if the Board could have come to the conclusion it did based on the records provided. He stated the burden of proof is on the claimant and the standard of proof since this is a quasi-judicial proceeding is the preponderance of the proof such as if the evidence tilted just a little in favor of a positive finding of the criteria you could find that criteria has been established. He stated his job is not to see that the claimant does or does not get the disability pension it is only to collect the records and make sure the records are complete and deal with any legal issues or questions.

Mr. Christiansen went over Section 46-35 and Section 46-26 that defines the criteria for total disability and permanent disability. He explained the conditions for disqualifying disability benefits. He explained that the claimant was terminated by the City in September 2014 for medical reasons and because of that the Board is estopped from not finding the claimant totally disabled. Mr. Vroman asked what if through the court proceedings the Board finds out the claimant willfully got involved in an assault and the Board grants the disability today; can that decision be re-addressed. Mr. Christiansen stated in the records his office collected he had not received any information from the City or anybody on the circumstances surrounding a fight. Mr. Vroman stated the claimant had said he had attached a police report and Mr. Christiansen stated there was no police report in the records supplied. Mr. Vroman stated the claimant admitted several times that he was assaulted while on his honeymoon and if it goes to trial and the Board finds out that the claimant partook in the fight can the Board go back and stop the pension. Mr. Christiansen stated once the Board makes the decision the Board has made the decision and that may be a reason to recess to get the police report or something more to convince the Board of the relevant facts. He stated he had highlighted "illegally participated in fights" because he had an issue with that because no information surrounding this issue was provided and the claimant did not attach the

police report. Mr. Vroman pointed out that the claimant noted in the interrogatories to see the police report and there wasn't a police report attached. Mr. Christiansen recommended recessing the hearing until he gets the police report and any other information needed.

After discussion the Board was in agreement that the claimant meets the ten years of service and the medical reasons for disability except for not having clarity on the issue just discussed regarding any legal or illegal activity at the time of the injury and the lack of the documentation as to whether he was the victim or the aggressor. The Board directed Mr. Christiansen to get the information on the assault. The Board also decided to put the independent medical evaluation on hold until the legal documents including the police reports are received. Mr. Vroman stated he did not believe an independent evaluation was needed; his concern was with the claimant's part in the fight, was he the victim or did he start the fight. It was the consensus of the Board to recess the hearing. Mr. Christiansen stated the Board would need to make a motion to recess the hearing today to a future date to be determined and to direct Mr. Christiansen to get as much information as he can regarding the fight the claimant was in when he got hurt. The Board discussed possibly having the information back and scheduling the hearing in with the next Quarterly Meeting on July 21st. Mr. Christiansen stated he would shoot for that date. It was determined the item could be the first item under Old Business.

Motion by Member Vroman, seconded by Member Gizzi, to recess the disability hearing and direct our Plan Attorney to gather more information as to the claimant's involvement in the alleged assault that is in the interrogatories. The motion carried by the following vote:

For: 5 - Koczan, Vroman, Fleemin III, Deyette and Gizzi

B. List of Accounts Payable

Chairman Koczan stated the Board has a list of accounts payable with backup in the amount of \$29,992.26 that has been submitted for payment. He asked if there was any discussion and there was none.

Motion by Member Vroman, seconded by Member Deyette, to approve the list of accounts payable in the amount of \$29,992.26 as submitted. The motion carried by the following vote:

For: 5 - Koczan, Vroman, Fleemin III, Deyette and Gizzi

C. Other Submissions

Chairman Koczan stated Mr. Vroman had submitted a request for travel . Mr. Vroman stated he had been invited to attend the Opal Fund Summit East with the training and room paid for only costing the \$260.00 airfare plus per diem for July 20 -22, 2015. He stated he would be okay with the Board capping the expenses at \$500.00. Chairman Koczan asked for a motion to approve the expenditure.

Motion by Member Gizzi, seconded by Chair Fleemin III, to approve the expenditure of expenses including airfare and food incurred for education. The motion carried by the following vote:

For: 5 - Koczan, Vroman, Fleemin III, Deyette and Gizzi

D. Plan Attorney's Comments re: Senate Bill 172

Mr. Christiansen stated Senate Bill 172 passed and was signed into law. He went over the provisions included most of which has been discussed here for about two (2) years. He stated the rules for the use of the State monies are changing; the Naples Letter arrangement goes away and is superseded by this. He stated the law provides that the additional State money if the City and the Union agree on how the money will be used such as all to go into the defined benefit plan or all to go into the share plan that is okay; it must be by mutual consent of both parties and can only be used for the plan. He stated if you do not have mutual consent then 50% would be used in the defined benefit component and 50% would go into a to be created defined contribution component or share plan that will need to be added to our current plan. It was determined that the union contract will be up September 30, 2015 and the requirement is that the share plan component will need to be added to the current plan by the end of this year or with the negotiations and he will be sending out a proto-type that can be used initially. He stated the money will be co-mingled together and invested just like the other money in the plan and will earn the net plan return. He stated one way the money in the share plan can be allocated is by full years of service beginning September 30th and he explained how it worked. He added that if the City and the Union agree to allocate all the money to the defined benefit component you still are required to add the share plan to the current plan even though no money is allocated to it. He stated in answer to the questions as to why the State is doing this is he sees this as the first step of getting rid of the defined benefit plans like the State did with the Florida Retirement System (FRS) however the pressure to do this has lifted because the markets are better. He stated there are a couple of other provisions that are administrative; 1) the requirement to develop and adopt a budget of administrative expenses for next year before the end of this fiscal year that must be distributed to the City, the State and be made available to all the members of the plan. He stated Ms. Spriggs will need to be told that and he suggested taking the expenses from the last two (2) years and adding 15-20% and have the budget ready for the next meeting or the meeting after. He added the budget can be amended mid-year if needed but must be re-distributed; 2) is the requirement after we finish the year to do a report on the actual expenses for the previous year that will need

to be approved by the Board and distributed as well. He stated there was one other bill adopted that is House Bill 1309 effective in the year 2016 that requires the plan to use the same mortality table that FRS uses; this table is the table the actuary uses in the actuarial valuation to calculate optional forms of benefits. He added the table FRS uses is more conservative than the table the plan is currently using meaning it projects people are going to live longer which likely increases the cost of the plan and he will leave that to the actuary.

Mr. Vroman asked Mr. Christiansen to explain the term "Commission Recapture" and Mr. Christiansen responded it is like a rebate but it is not a big money maker however he does have other plans that use it. Mr. Christiansen stated it is a situation where a portion of the trade commission amount would be rebated back to the plan by managers who were trading stocks through a commission recapture broker however it used to be a big deal when trades were traded at 9 - 10 cents per share whereas now the trades are trading at 1 - 2 cents per share so there is less reason to do it. He stated the managers are now required to get best execution meaning not only the best price but other things that go along with that. He suggested asking Mr. West for a recommendation.

8. STAFF COMMENTS:

9. BOARD/COMMITTEE MEMBERS COMMENTS:

The Board discussed the July 21st Quarterly meeting date. Mr. Vroman stated he would not be in attendance so it was discussed to have Ms. Spriggs contact Mr. Christiansen's office for other possible dates and coordinate with everyone. The Board decided to go ahead and tentatively set the meeting for July 21st at 3:00 p.m. and see if Ms. Spriggs can work out other options. Chairman Koczan stated the quarterly meetings are the big meetings when the Board tries to get everyone to attend so the plan can be compliant by October 1st and we may be having the hearing on that date also.

Mr. Gizzi asked about the possibility of electronic meetings where a Board Member could attend the meeting via phone or skype and Mr. Christiansen explained there must be a quorum physically present before you can even consider doing that and should only be allowed under extraordinary circumstances.

Chairman Koczan stated he would email Ms. Spriggs regarding the meeting date and contacting Mr. West regarding the Commission Recapture issue so he will be prepared to talk about it.

Mr. Fleemin commented that he looked forward to working with everyone.

Chairman Koczan congratulated Mr. Fleemin and welcomed him to the Board. He showed the appreciation trophy for the Board members' volunteer hours and reminded

everyone to keep a log of their hours spent pertaining to Pension Board business between April 1, 2015 and March 31, 2016 for next year's numbers and forward them to Ms. Day.

10. ADJOURNMENT:

The meeting adjourned at 4:24 p.m.

Jim Koczan, Chairman

ATTEST:

Janet Day, Deputy City Clerk