

MINUTES
Policemen's Pension and Relief Fund
Thursday, February 11, 2010

On Thursday, February 11, 2010 at 9:00 a.m., a meeting of the Board of Trustees of the Policemen's Pension and Relief Fund of the City of Little Rock, Arkansas was held in the Sister Cities Conference Room at City Hall.

PRESENT:	Bruce Moore	Chairman
	Farris Hensley	Secretary
	Sara Lenehan	Treasurer
	Lee Harrod	Member
	Mike Lowery	Member
	David Rowan	Member

ABSENT:	Brad Furlow	Member
---------	-------------	--------

Also present were Mr. Larry Middleton, Mr. Alex Jordan, and Mr. Bo Brister, Stephens Capital Management, Financial Consultants for the Fund; Mr. John Peace, Dover Dixon Horne Law Firm, Legal Consultants for the Fund; Mr. Roger Smith, Government Relation Lobbyist for the Fund; Mr. Jody Carreiro, State Actuary for the Arkansas Fire and Police Pension Review Board; Mr. Don Wood and Mr. Steve Young, Retired Members of the Fund; Mr. Jason Bailey, intern with City of Little Rock City Managers Office; Mr. Rick Robinson, MetLife Investments; and Mrs. Kathy Lindsey and Ms. Sharon Phillips, Pension Fund Administrative Staff.

Mr. Moore called the meeting to order at approximately 9:08 a.m., certifying that a quorum of the Board was present and that the media had been properly notified in a letter dated February 2, 2010 to the Arkansas Democrat Gazette.

Copies of the November, December, and January minutes had previously been submitted to Board members prior to the meeting. Mr. Harrod made a motion to amend the January's minutes, page five (5), Paragraph one (1), line five (5), and change the word "fund" to "*fund's*", and insert the word "*expenses*", therefore to accurately state; "*Mr. Harrod said Mr. Furlow's report does reflect the fund's expenses decreasing, and the total expenses without DROP at the year-end of 2009 are\$7,245,535.*" Mr. Hensley seconded the motion and it passed unanimously. Mr. Hensley then made a motion for an amendment to be made on page six (6), paragraph one (1), line eleven (11) and strike the two words "**confirmed and**" therefore the sentence would accurately state; "*Mr. Hensley stated that the benefits of the fund will increase for a period of time then start decreasing while the reoccurring revenue increases and when the last member passes away, there should not be any revenue left in the fund.*" Mr. Lowery seconded the motion and it passed unanimously. Mr. Peace had previously requested that an amendment be made on page three (3), paragraph two (2), line nine (9) to change the word "*rescinded*" to "*implemented*", therefore accurately state; "*Mr. Peace said they were also made prior to the benefit increase being implemented.*" Mr. Hensley made a motion to approve the previously referenced amendment. Mr. Rowan seconded the motion and it passed unanimously.

Mr. Hensley then made a motion to approve the amended November minutes, December minutes as submitted, and amended January minutes. Mr. Rowan seconded the motion and it passed unanimously.

Minutes

February 11, 2010

Page 2 of 7

Mr. Middleton and Mr. Jordan gave the January 2010 financial report and stated that on January 31, 2010, the market value of the total Fund was \$46,764,865, of which \$24,032,192 was allocated to DROP. This represents a decrease in the account balance of (\$1,208,401) since December 31, 2009. The component of this change was income of \$33,557, and net contributions/withdrawals of (\$441,992). Additionally, \$561,910.45 was held in the Metropolitan Checking Account. The Funds overall market rate of return for the month of January 2010 was (1.63%) and 13.74% for the past twelve (12) months.

Mr. Middleton had previously been asked to determine if a separate accounting could be provided on the unaudited monthly balance sheet report concerning the DROP, to provide an accurate amount of the Pension Funds actual assets. Mr. Carreiro had then been asked to research the matter and provide a report to the Board.

At the current meeting Mr. Carreiro explained that DROP probably should not be reported separately on the financial statement because under federal tax guidelines it could possibly affect the Pension Fund's tax status. Mr. Hensley said that a total separate accounting had never been requested, and that the only request made, was to have DROP distributions listed separately on the monthly report. He said that matter had gotten much more complicated than had ever been anticipated, therefore it could be dealt with at a later time.

Mr. Moore addressed the Board concerning a previously scheduled presentation to the Little Rock City Board of Directors, and explained that the February 9, 2010 agenda meeting had been postponed due to bad weather, causing those agenda items to be deferred until the February 23, 2010 meeting. Mr. Moore asked that the presentation be scheduled for the March 12, 2010 or March 23, 2010 agenda meeting. When asked, Mr. Smith said that he preferred March 23, 2010 and discussed with the Board some of the issues that would be addressed during the presentation. Issues specifically discussed included the Fund's overall financial condition, and a request for the City to repay previously discussed probation fees that had been withheld from the Pension Fund over an approximate ten (10) year period. Mr. Hensley specifically asked Mr. Smith to include in his presentation the 1991 City Board resolution that was passed indicating the Board's intention to fully fund the pension fund, and to participate in forming a committee to explore various funding options to ultimately make the Pension Fund whole. Mr. Moore said he was not in favor of forming a committee, but thought it was important to discuss Senate Bill 178 in the presentation.

Mr. Smith reported that Mr. David Clark, Mr. Jody Carreiro and himself had met with the Co-Chairmen of the State Legislative Joint Retirement Committee, and discussed various issues affecting closed pension plans throughout the State, and the urgency to correct the under funded status of them. He said that the committee had given Mr. Carreiro some direction in preparing for the upcoming 2011 legislation session, one of which included the issue of distributing premium insurance taxes funding.

During discussion concerning DROP Interest Statements, Mrs. Lenehan said that the Pension Plan's DROP rules state that interest will be posted annually on the anniversary date of each member, and that a statement will be mailed within 60 days of posting the interest. Because of PRB rule changes made during 2009 regarding payment of DROP interest, annual certified interest to be paid on accounts is not received from the PRB until sometime after the first of the follow calendar year. Therefore, the amount to be paid often is not known until after the member's anniversary date. Mrs. Lenehan told the Board that following a discussion concerning the matter with Mr. David Clark, Director of the PRB, her recommendation would be to issue statements at calendar year end, that would show all activity for

Minutes

February 11, 2010

Page 3 of 7

the year, and support the average balance, in which the interest will ultimately be based upon. Once the annual certified interest rate is received from the PRB, a second statement crediting interest would be issued to all members. She explained that a programmer with the City of Little Rock's Information Technology Department would be making the necessary changes, and estimated time of completion to be approximately two months. Statements would continue to be mailed on the member's anniversary dates until programming changes are complete.

Mr. Hensley made a motion to implement the previously referenced changes regarding DROP interest statements, as recommended by Mrs. Lenehan, and to make necessary changes to the Little Rock Policeman's Rules, Policies, and Procedures manual. Mrs. Lenehan seconded the motion and it passed unanimously.

Mrs. Lenehan told the Board that Mr. Clark had informed her that the Little Rock Policemen's Pension Fund had apparently failed to formally adopt Act 1371 of 2003. The act enables pension plans to retain DROP balances on accounts following a member's termination from employment and sets the rules regarding interest calculations on DROP balances. Mrs. Lenehan explained that previous minutes had been reviewed and that although reference to House Bill 1226 was found in the minutes, and that the Board was obviously in support of formally adopting it, no official action was apparently taken. Based upon a recommendation from Mrs. Lenehan, Mr. Hensley made a motion for the Police Pension Board to approve a resolution adopting Act 1371 of 2003, and forward it to the Little Rock City Board Directors for their approval. Upon final approval by both boards it would then be sent to the PRB. Mr. Rowan seconded the motion and it passed unanimously.

Mr. Peace reported concerning the past benefit increase lawsuit, and said although a specific date has not been set for a hearing, it will be sometime after May 11, 2010, due to scheduling of involved attorneys.

Mr. Peace reported concerning the Internal Revenue Service (IRS) required minimum distribution (RMD) from DROP accounts, and said IRS rules state that when a member reaches Age 70 ½, a minimum distribution is required from their DROP account. IRS has two tables to determine the required distributions. One table applies to members that are single, or who are married and have a spouse that is less than ten (10) years younger. The second table is for members who are married and the spouse is more than ten (10) years younger. IRS rules state that when the member reaches age 70 ½, they have until April 1st of the following year to receive their first annual distribution, and then receive subsequent annual distributions by December 31st of each year thereafter. The Arkansas DROP statute states that the distribution must be made by December 31 of the year that the member reaches age 70 ½. Mr. Peace explained that the tax qualification status of the plan could be jeopardized if the Fund does not comply with the IRS regulations. When asked by Mrs. Lenehan, Mr. Peace said that upon reaching age 70 ½ the Pension Plan can continue to administer such accounts, however the Board should approve such a procedure that is within compliance of the previously referenced IRS rule.

Mr. Rowan made a motion to approve the previously discussed RMD procedures to enable the Police Pension Administration Office to administer the DROP accounts of members reaching age 70½, and to send a letter notifying such members of the newly adopted procedure. Mr. Lowery seconded the motion. Mrs. Lenehan then suggested that a letter be sent to such members outlining an additional option of having their DROP accounts rolled over, and administered outside of the Pension Plan. Mr.

Minutes

February 11, 2010

Page 4 of 7

Rowan and Mr. Lowery withdrew the motion and second. This matter was then tabled until March in order to have a letter drafted and submitted to the Board for approval.

Mr. Hensley referenced the December 3, 2010 invoice for legal work performed, from Dover Dixon Horne Law Firm, and asked Mr. Peace what Board Member had requested legal research on November 24, 2009 to determine if the Little Rock City Board of Directors had legal authority to rescind past benefit increase resolutions. Mr. Hensley said that the Pension Board had established a procedure months ago, to copy all other Board Member when requesting a legal opinion or review of a legal issue outside of a monthly board meeting. He explained that he and other board members had not been copied, therefore had no knowledge of legal research having been conducted on such an important and sensitive issue. Mr. Peace first said that Mr. Furlow had made the request, but latter explained that the invoice should have read Board of Trustees, and not City Board of Directors. He (Mr. Peace) then explained that Mr. Furlow had not asked him to research the matter of rescinding past benefit increases, but to prepare a motion for the Pension Board's consideration to rescind the current benefit increase resolution that was to be considered at an upcoming meeting. Mr. Hensley questioned why a Board Member would ask its legal counsel to prepare a motion that the member was going to make at an upcoming meeting, and concluded his comments concerning the issue by telling Mr. Peace that he was hopeful that Board Members would follow proper established procedure in the future when requesting legal assistance or research.

Mr. Moore said that if a Board Member asked legal counsel to do research on a particular issue, outside of a board meeting, and copies other Board Members without notifying the press, it would possibly be a violation of the Freedom of Information Act because business is being conducted outside of a public meeting. Mr. Hensley explained that the Board had adopted the established procedure several months ago, and asked Mr. Moore why it is only now becoming an issue. Following a lengthy discussion it was decided to place the matter on the agenda for the March meeting.

In regard to the above referenced legal counsel billing invoice, Mr. Harrod referenced a charge made on November 23, 2009, and asked Mr. Peace what Board member had requested "research concerning Robert's Rules of Order and proper procedures/voting requirement for reconsidering and rescinding benefit increase". Mr. Peace said that no one had asked him to research the matter, and that his (Mr. Peace's) opinion was to recommend that Robert's Rules of Order be adopted in his written opinion to the Board regarding rescinding the benefit increase.

Mr. Harrod then questioned a charge appearing on the January 19, 2010 invoice, and asked why Mr. Peace had charged the Pension Fund for reviewing its website. Mr. Peace explained that he did not remember, and would need to research the matter. Mr. Hensley told the Board that Dover Dixon had been paid more than \$52,000 in 2009, and at least \$10,000 of that amount was to attend monthly meetings. Mr. Peace said that only \$22,000 was related to his services, and the remainder was related to litigation concerning the ongoing benefit increase lawsuit. Moore then suggested that legal counsel not accept future requests from Board Members outside of Board meetings for legal opinions or review, until the procedure is thoroughly reviewed.

Mr. Hensley then made a motion for legal counsel to only attend future meetings when a report is to be given, and leave upon its completion. If a legal question arises during the course of a meeting and legal counsel is not present then an email would be forwarded to them concerning the issue, and it could be dealt with during the upcoming meeting. Mr. Harrod seconded the motion, and stated that he did not believe Mr. Peace should be charging for reading minutes of the previous meetings, and said

Minutes

February 11, 2010

Page 5 of 7

that would also save the Fund money. During discussion, Mr. Peace suggested that Mr. John Petty who is also an attorney in the law firm attend future meetings because he receives only \$150 an hour instead of \$275 an hour that is paid to him (Mr. Peace). Mr. Moore told the Board that would not be supportive of legal counsel not being present during Board meetings. Mr. Lowery explained that he was supportive of the motion because it would save the Fund money. A vote was taken on the motion, and failed for lack of a majority vote. Mr. Hensley, Mr. Lowery, and Mr. Harrod voted for the motion. Mr. Moore, Mrs. Lenehan and Mr. Rowan voted against the motion.

Mr. Rowan suggested that Mr. Petty attend future meetings instead of Mr. Peace, however Mr. Moore said that he believed the law firm should make such decisions, and not the Pension Board. Mr. Hensley stated that he disagreed with Mr. Moore, and that the client should have who they want as their legal counsel attending meetings.

Mr. Lowery then addressed the matter concerning attorney fees, and read from the initial engagement letter that was submitted by Dover Dixon in 2006 regarding professional fees. Mr. Lowery read that the hourly rate would be \$220 paid for the services of Mr. John Peace and Mr. Dean Overstreet, as well. The engagement letter detailed that the hourly rates may be adjusted from time to time, but not more frequently than annually. Mr. Lowery said that he has served on the Board for almost three years, and has never been notified of a rate change from the initial \$220 hourly to the current rate of \$275 hourly. He said that if he had not requested and then reviewed the engagement letter, he would never have known the original rate was only \$220 hourly. In his response, Mr. Peace said that Board Members were notified when they received the detailed monthly billings in January of each year in which an hourly rate change was implemented.

Mr. Hensley said that given the circumstances he thought that the hourly rate should be lowered to the \$220 detailed in his initial engagement letter, and asked him (Mr. Peace) if he would be willing to lower it. Mr. Peace said that it would not be fair to his firm if he went back retroactively. He also said that lowering the hourly rate was not his decision to make, however he would ask the law firm if it could be lower.

Following a discussion concerning soliciting bids for legal counsel, Mr. Hensley made a motion to initiate an RFQ process for a legal counsel. Mr. Harrod seconded the motion and it passed unanimously. The Administrative Staff was asked to draft a RFQ to be reviewed at the March meeting.

Mrs. Lenehan submitted copies of the un-audited financial report for January 2010. Losses to the plan year to date through January 31, 2010 were (\$1,374,095). The report indicated that as of January 31, 2010, the total account fund balance including the DROP was \$47,225,991. The net loss for the month of January was (\$1,776,057).

Also submitted were copies of the January 2010 expense and legal fee reports. Total expenditures, excluding benefit related expenses, were \$4,776.31 for the month. Legal fees paid for the month of January were \$3,003.00.

Following review of the January financial and expense reports, Mr. Hensley made a motion to approve them as submitted. Mr. Rowan seconded the motion and it passed unanimously.

As previously requested, Mrs. Lindsey had distributed copies of the Robert's Rule of Order books to Mr. Lowery, Mr. Hensley, and Mr. Harrod prior to the beginning of the meeting. Consideration for Adopting Robert's Rule of Order was then tabled until the March meeting.

Minutes

February 11, 2010

Page 6 of 7

Mrs. Lenehan reported that the RFQ for financial advisor had been posted, and responses were due by February 22, 2010. The Pension Fund's investment policy was also posted because several investment firms had inquired concerning it. Mr. Moore explained that the next step in the process would be to review proposals that were received.

Mrs. Lindsey informed the Board that the two outstanding widow's affidavits had recently been returned.

During the member's comment portion of the meeting, Mr. Steve Young stated that he had asked in the last meeting if retirees could comment concerning issues being discussed during a meeting before they were actually voted on. He explained that Mr. Moore was not present at the time, and Mrs. Lenehan had said that Mr. Moore could clarify the matter at the upcoming meeting. He (Mr. Young) said that he had raised his hand a couple of times during the current meeting, and the Chairman had ignored him. Mr. Young asked that the Board consider a policy that allows attending members to speak prior to a vote actually being taken on the motion. Mr. Moore explained that he did not ignore Mr. Young, but was waiting to allow him to speak during the member's comment portion of the meeting. Mr. Hensley said he did not realize that anyone had been ignored, and made a motion to allow any member who is in attendance be recognized by the Chairman, and allowed to speak on an issue prior to a vote being taken. Mr. Harrod seconded the motion and it passed unanimously.

Mr. Young then addressed an issue previously discussed at the last meeting concerning members being allowed to designate a portion of their monthly pension be paid to another member who is less fortunate. He suggested that a committee be formed to review various issues brought up at meetings and then report back to the Board at the Following meeting. Mr. Harrod made a motion to form a committee of Board Members and General Members wishing to serve on a committee that would review various issues at the direction of the Board. Mr. Hensley seconded the motion. During discussion, Mr. Moore said that information would need to be mailed to members regarding forming a committee, and if more than one Board member is on the committee, the Press would need to be notified. Mr. Hensley said that such information would be included in the monthly minutes, and in his opinion that would be sufficient. A vote was taken on the motion, and it passed unanimously.

Mrs. Lindsey reported that Ms. Garrett had not made a January payment. Mr. Lowery said that he would call the probation officer.

Mrs. Lindsey distributed information regarding an upcoming National Conference on Public Employee Retirement Systems (NCPERS) conference. Although no formal action was taken concerning the matter, Board Members agreed not to send anyone because of the Fund's current financial challenges.

Mrs. Lindsey presented a 2010 election schedule for the Board Trustee positions expiring. Mr. Lowery made a motion to approve the 2010 election schedule. Mr. Harrod seconded the motion and it passed unanimously.

Mr. Roger Smith's contract was presented for Mr. Moore's signature. Mr. Peace stated that paragraph four (4) has an automatic renewal provision and a provision needs added to allow either party to terminate the contract by giving a thirty (30) day prior notice. Mr. Smith stated that he would submit a revised contract including the provision.

Minutes
February 11, 2010
Page 7 of 7

Upon conclusion of Pension Board business, Mr. Harrod made a motion to adjourn the meeting. Mr. Hensley seconded the motion, and meeting adjourned at approximately 12:14 p.m.

Respectfully Submitted,

Farris Hensley
Board Secretary