Firemen's Relief and Pension Fund Board Meeting
February 25, 2009
9:00 A.M.

The Board of Trustees of the Firemen's Relief and Pension Fund of the City of Little Rock, Arkansas, met at 9:00 AM in the Sister Cities Conference Room located at 500 W. Markham Street, City Hall, with the following members and officials present. Mr. Moore called the meeting to order.

1. **Roll call.**
   Present: Mr. Bruce Moore, Sara Lenehan, Nancy Wood, Butch Wright, Don Kinney, Don Ply, Johnny Reep, and Havis Jacks

2. **Approve minutes from the November & December Meetings.**

   Ms. Wood advised that the December Meeting Minutes were not yet completed.

   A motion was made by Mr. Wright, seconded by Mr. Ply to approve the November Meeting Minutes. By unanimous voice vote of the Board Members present, the minutes were approved.

3. **Stephens, Inc. Report**
   Larry Middleton, representing Stephens Management, presented a monthly overview of the Firemen's Relief and Pension Fund. The total account balance was $65,441,748. (The overview is on file in the City Clerk's Office).

4. Financial Report:

Ms. Sara Lenehan presented the financial report for December 2008 and Jan 2009. (Copies are on file in the Pension Office).

5. Remove from Pension Rolls:

A motion was made by Mr. Reep, seconded by Mr. Wright, to remove Mr. John C. Parker from the pension rolls; by unanimous voice of the Board Members present, the motion carried.

John C. Parker Amount: $1,353.96 Date of Death: 12- 29-08

6. Add to Pension Rolls:

A motion was made by Mr. Ply, seconded by Mr. Kinney to add the following individuals to the pension rolls:

Betty Parker	**Amount: $1,353.96**	**Effective Date: 01-01-09**
Claude Holt III	**Amount: $2,440.97**	**Effective Date: 03-01-09**
Phillip Hayes	**Amount: $3,931.39**	**Effective Date: 03-01-09**
Randy Cochran	**Amount: $3,147.82**	**Effective Date: 03-14-09**

Mr. Reep asked if we had proper documentation on Ms. Parker.

The Pension Office advised that the documents are in order, and passed the sheets around to each Member.

Mr. Reep after the Board reviewing the documents, made a motion to add the listed retirees and beneficiaries to the pension rolls. Mr. Wright seconded the motion, and by unanimous voice vote of the Board Members present, the motion carried.

7. **Other Business**

A. Audit

1. Tax Impact of Repayments – Ms. Raley said her understanding was that each person had been sent a letter, that they should check with their accountant on the tax repayment and that we would work with them on the repayment, and then thought it was to be deferred until we had an independent auditor look at all the calculations.

2. Bid 9211 RFQ Fire Audit – Ms. Lenehan advised the bid had been put out, and the deadline was February 9, 2009, at 4:30 PM, and no bids were received. There were some calls with questions, but no one bid.

Ms. Lenehan said the bids were published so that anyone can participate, and there were no bidders. She said that she called the folks who perform the City's annual audit, (BKD) to ask them, because they had also inquired about the bid, and there was discussion regarding adding it to the City's audit. The main concern was because we were asking for an audit of the actual benefits, for the individual participants, the concern was being able to go back to where that started and then having a knowledge of every cost of living increase, every benefit, which would be quite an undertaking for them to be sure they had everything, and could not do the audit at an economical price. Ms. Lenehan said they made a couple of recommendations, and one of them was rather than calling it a full audit, thought that maybe having agreed upon procedures; that we would ask them to perform specific procedures. Another thing was that it might be appropriate to take someone who had a more intimate knowledge of the pensions plans from their inception; possibly contracting with someone such as Jody Carreiro, the actuary for the PRB, or someone to look at it. Ms, Lenehan mentioned the fact that the Carreiro Firm is working for the legislature right now and probably would not be available immediately.

Ms. Lenehan stated that by the time we put another bid out, we would be looking an April or May time frame. She thought that might be an option the Board wanted to consider. Another recommendation was to define the scope better. Does the Board want the company or firm to look at the entire population, or are we as a Board more focused on those where the Pension Office had come up with differences. Another recommendation was to have them do a review of the processes now in place for monitoring and moving forward to make sure the opportunities for error were reduced. To make sure good procedures are in place, to make sure increase were applied appropriately, and that there is appropriate documentation at the point that someone enters the pension; that the pensioners have some responsibility also, to review their starting point, their salary and to sign off on the accuracy of that. Ms. Lenehan asked what the Boards wished to do, moving forward.

Ms. Lenehan asked if the Board wanted to refine the RFQ and asked for some agreed upon procedures. Do we want to consult Mr. Carreiro to see if he would be willing to do a review, do we want to limit the scope, at this point to those the Pension Office has brought to the Board with as differences? Possibly have them do some verification on the ones brought in with discrepancies and then to check the current procedures going forward to reduce the risk of loss. Ms. Lenehan thought the Board might wish to have discussion regarding these points.

Mr. Reep said he was stunned that no one wanted to take this on. Ms. Lenehan said that public accounting firms have really been held to the fire, and felt that if they were going to give an opinion or accept procedures; they want to have a comfort level that they have good knowledge. Every pension plan is different. The RFQ requested an audit, and thought the word audit is what discouraged them.

Ms. Lenehan said where the Pension Office has seen errors, was with dependents, and the Pension Office is now sending out an annual survey to verify that the dependents who are receiving benefits meet the appropriate guidelines, that they are not full time students, when they reach a certain age, that they be removed from the rolls. There was a rule in 1999 or a resolution, and that was where several errors were found. The amount for the dependent child was increased and the increase was not applied to every dependent child throughout the pensions. There were times when people hit age sixty where their "age sixty bonus" was missed or applied twice, some cost of living increases were missed. It is a constant monitoring of the benefit fund. There were a lot of things done manually way back in time, accounting systems that are not longer in operation, and archived records would be extremely difficult to pull. There is an annual document that goes out to verify all the documentation on the spouse, dependents, etc. Ms. Lenehan believed that steps are taken now to get all the documentation, and to follow up annually to ensure any changes can be applied, or corrected quickly. She stated that the City Attorney's Office had been very complimentary in the work that Ms. Phillips and Ms. Grigsby have done, and the thoroughness of that work. She said they feel good about what they have accomplished.

Mr. Moore stated that more than one RFQ has had to be put out in the past, and he thought that we could put it back out and also do some solicitations and see what we can get. He felt it was important to have that process.

Ms. Lenehan asked if the Board wanted it to be for an audit, or do we want it to be for some agreed up procedures, and defining what those agreed upon procedures. She thought maybe the word audit had scared away potential bidders. Mr. Reep said that in the past when there was an audit, they would simply total the benefits paid to that person, so when the over/under issue came up, and we asked for a audit, he just want a benefit check to give staff some credibility to staff, as they are the ones who uncovered it, and takes the pressure off them to say, "here is an independent auditing of the benefits". Ms. Lenehan said when the auditors perform the City's audit, they do include the pension plans in that, but what they are verifying is that the fair market value of the assets is appropriate, they verify that the people who received benefits are on the benefit rolls, that it matches the reports filed with the PRB and all those sorts of things, and there is a concept of materiality, and they are not saying that they validate that every dollar is accurate. She thought that the scope of this is of concern. What are we exactly asking them to verify. Are we asking them to verify the benefit amount of every pension member, or are we asking them to take a sample of a certain number, are we asking them to review those that are in dispute, or a random sample of some percentage of the rest of the membership. Ms. Lenehan said there was an option for those who were overpaid to bring in a financial advisor and review their account.

Mr. Bill Lundy, Pension Review Board Representative, was present, saying that he had heard about all these problems by word of mouth, and got to doing a little background check and called David Clark, Director of the Pension Review Board, and asked him about Jim Banks widow who he had married after retirement, and that the Board had decided not to pay because they had not been married five years. Mr. Lundy said that is an optional benefit. It is not mandatory, and to get that benefit you have to go through the benefit increase procedure through the Pension Review Board. He said he asked Mr. Clark to research this, and the Little Rock Fire Fund has never asked for that benefit. The Police Fund did, and they adopted it, but the Fire fund has no record of ever asking for it. In addition the Board gets financial reports that have to be filed with the Pension Review Board every year and it has a list of benefit descriptions and nowhere in that benefit description does it list that you are paying widowers who marry after retirement. Ms. Raley stated that paying Ms. Banks a pension was an error. It was that she was married four years and ten months, and the Pension Office did not catch that. Mr. Lundy said that four years and ten months does not matter. There is no benefit if she had been married six years. Ms. Raley said that was correct, the Fire Pension fund did not have the benefit increase and even if she was married the five years, she would not have qualified. Mr. Moore asked if they were saying that even if there is someone who had been married five years they would not qualify for the benefit. Mr. Reep said a remarriage has to be an option, is what Mr. Lundy is saying. The only exception would be the line of duty death benefit. Mr. Reep acknowledged that he was on the Board when that mistake occurred. He said her name was on the agenda, and he made the motion to enroll her, and he was at fault. He said he should have caught it, and he didn't catch it.

Mr. Moore said his other questions were how many widows are we paying that had been married five years. Are you saying this applies only after the person retired, or are we talking about someone who was married fifty years? Mr. Lundy said this fund is under a restricted amount of assets they have and there is only so much you can do and you can't answer every problem that is out there. He said it is an option; the Police went through the process, but the Fire Fund never did. This should never have been considered to start with. Mr. Moore, to clarify what Mr. Lundy was saying (for example) if someone is in his late forties and retires, and marries a twenty-three year old, she is not eligible. Ms. Raley stated she had reviewed that in the Banks case. She said this Board has not approved the benefit for people getting married after a firefighter is retired.

Mr. Moore said what disappoints him now, if this is accurate, then this lady (Ms. Banks) came before us and we should apologize that we based this on the fact that she had not been married for five years. What is embarrassing is that it was not issue; it was that she wasn't eligible to begin with, is what he is hearing. Ms. Raley responded that that in the letter to Ms. Banks, she told her both things. That she did not have a benefit and she was not entitled to it if we did have the benefit, because of not being married to the retiree for five years. Mr. Moore said he thought Ms. Banks left here thinking that if she had been married a few more months to Mr. Banks she would have been eligible for that benefit.

Mr. Moore asked if a review had been done of widows that were married after the firefighter retired, but met the five year threshold. Ms. Grigsby said they had reviewed that and Ms. Banks was the only one that she reviewed that married after retirement.

Mr. Lundy asked to be recognized regarding the over/underpayment situation. He stated he had asked Mr. David Clark about the procedure for recovering overpayment and underpayments, and that Mr. Clark had referred him back to the Pension Review Board Rules and Regulations. He stated there are regulations for pension funds we find that are out of compliance. One set for those that are paying benefit levels below, and a set for pension funds that are being paid above. They are both somewhat similar. If you are paying benefits that are to low the first step is for staff to notify the local fund in writing, and inform the local fund as to what benefits are to be paid. Staff will ask the local board to increase payments of underpayments and file a notice of pro-rating. Then step three h says back payment for underpaid benefits shall be left to the discretion of the local board and counsel. The board does not necessarily have to pay them back. When you go to the benefits that are too high the first step is the same thing. You ask them to correct that or through the process of benefit increase, showing the Pension Review Board the fund can pay those higher benefits. If not, when you get to step three it says pursuant to the Attorney General's Opinion, recovery of overpayment shall not be made by a local board. He stated the first thing they did was call the Attorney General's Office, and they could not find this board rule which was adopted in 1985, and could not find a copy of any Attorney General's Opinion from 1985. They found one from 1989, and it is a little less clear. The 1989 Opinion one gives some legal opinions where you might be able to do it. It says you are supposed to have a procedure in place. It tells you there are definitely some arguments that those pensioners can make as to why they do not have to repay. He

said that David Clark went back and researched minutes back to 1985 to find out what the Pension Review Board did in 1985. Catherine Hinshaw, Past Executive Director of the Arkansas Pension Review Board, had just gotten an oral opinion from somebody in the Attorney General's Office and they adopted the rule. This rule is in effect right now based on the oral opinion. In 1989, the Pension Review Board asked for written opinion, and what he was presenting today, was a copy of the written opinion. This Opinion described it more accurately. If the Board is trying to recover, you may not be able to recover it. Ms. Lenehan asked who exactly this applies to. She said she knows there were Bills presented before the Legislature this year that authorize recovery of funds. Mr. Lundy clarified that was LOPFI, and stated he was glad she brought that up. They have always assumed that they could go to court and recover money, but it was never spelled out, so LOPFI is pursuing language that allows LOPFI to go back and go to court to recover those funds. Mr. Reep said this further pushes the reasons for an independent audit.

Ms. Raley said this information is helpful. The board was not talking about going back beyond five years, and the Board has not taken any action today. Ms. Raley asked to review the documents presented.

Mr. Wright said the Board has taken action to reduce those pensions that were over paid to the corrected amount. Ms. Raley said we have not gone back for a return, and she wanted to look at this further.

Mr. Lundy stated that benefits were calculated by a City employee, and under the Act of Omissions or whatever, this pension board could ask the City to make good the money that was lost in the miscalculation.

Mr. Reep said he had inquires from two retirees, Watson and Mahan, both alive, but they were in remarriages, and were hoping that the law when it goes to their passing away, would be beneficial, but they were "single" circumstances.

Mr. Moore asked Mr. Lundy if he was saying that every time the Board wishes to extend that benefit to someone that has been married to someone who has been married over five year, the board would have to get permission from the Pension Review Board. Mr. Lundy answered that you do not have to do it every time you have a new beneficiary. Mr. Moore stated he remembered that Ms. Banks left here in tears and felt she left here thinking if she had been married just few more months she would have been eligible. Ms. Raley replied that the letter sent to Ms. Banks stated that not only did she not meet benefit requirements, even if the policy had been adopted, and that this Board had not adopted it. Ms. Raley's recollection was that the letter sent to Ms. Banks made that clear.
Mr. Lundy cautioned the Board that the account has sixty-five million dollars in it, and then you have a DROP balance of ten million dollars. The police are in trouble now. They have convinced a lot of their people that have retired to go ahead and leave their DROP money in their account after they retire, and they are now worried, with just cause, that because the interest rate market and the five year smoothing that was used,

and lower interest, at some point in the near future, that those retirees and people drawing money out are going to realize they can get more money paying it to banks and if they draw all their money out, and lose those assets, there is a point in the actuarial evaluation that you have to look at, and our fund in 2007 was seventy percent funded and the police were forty eight or forty-nine percent funded. If they had a run on the bank and everyone took their DROP money out, they would drop from 49% funded to a 25% funded and that is going to have a very bleak consequence of the financial stability of that fund. This will restrict that Boards ability got grant any increases. Mr. Moore stated he chairs that Board also, and that issue had been discussed with them. Ms. Lenehan said Mr. Carreiro attended the police funds last meeting and they did some analysis on the impact of DROP and if there was such a run on the bank and how that would impact the plan, and said they would have to go back and review the minutes, but as a surprise to everyone, the actuarial soundness and the benefit and or if the DROP and benefited the Fund or hurt the fund, and it came out very even, with and without DROP. The percentage variance was less than a percent. It was a surprise to everyone.

Mr. Moore asked Ms. Raley to give a review of the Attorney Generals Opinion and the law at the next meeting.

3. Response to Ms. Jacobs-Dixon

Ms. Raley stated this is a response to a letter received form Ms. Jacobs-Dixon asking why the Board did not go retroactive back to the time of her application. Ms. Raley stated Ms. Jacobs-Dixon is one of the widows of a firefighter killed in the line of duty, and was put back on the pension rolls. Ms. Raley said she would respond to her and tell her it is effective from the time it is approved by this Board.

B. Posting of Minutes

Ms. Grigsby asked of November 2008, the minutes were up to date. The December minutes have not been received by the Pension Office yet, and there was no meeting in January. Mr. Moore said there are very seldom changes to the Fire Pension Minutes, but it his understanding that the minutes are not distributed until approved.

C. 2009 NCPERS Annual Conference

D. 2009 NIPA (National Institute for Pension Administrators Conference

Ms. Grigsby handed out information on both the listed annual conferences. Mr. Lundy said he was a member of NCPERS and would like to extend the invitation to the Board, and because a lot of the Boards are concerned about travel, there is a huge educational component of this session and it is important for Board members. Mr. Moore said he would encourage at least one member to attend. Mr. Kinney said he would like to go, had attended the conference last year in New Orleans and found it to be beneficial. Ms. Wood asked Mr. Lundy if he would recommend one over the other and which would be the most beneficial. He answered that he did not know any thing about the second

conference listed, but in the NCPERS, they have two section, they have the trustee education seminar on Friday and Saturday. It is good for trustees who have not gotten much training to be trustees. You get more involved. They have break-out session and have major speakers. You get more involved in pension issues there. He said these are for police and firemen who are not processional finance people, to where they can read and understand the financial terms. Ms. Wood said she would like to go, but scheduling may be a problem. Mr. Moore said he would like to go, but he may have a scheduling conflict. Mr. Moore asked if the Board would want to authorize for two to go, accounting the schedules. Mr. Wright made the motion to authorize two members to go to NCPERS. Mr. Kinney seconded the motion. By voice vote, the motion carried.

Mr. Moore asked Ms. Raley if she had been assigned to this Board, via Mr. Carpenter. Ms. Raley answered that she was. He said it has been the practice that she attend as needed. He asked her to visit with Mr. Carpenter about attending all the meetings, he believed that he would have more of a comfort level with that as we are dealing with some major issues. He said if Mr. Carpenter feels that is not necessary, he would make the recommendation that the Board hire legal counsel.

Mr. Moore asked if the issue of legal counsel could be added to the next meeting agenda.

Ms. Lenehan asked for some direction on the audit. She said she did not think we had defined what was going to be put in the next RFP. She asked if the Board wanted the bid to read the same as it does now, with audit, which today we have seen some of the issues that can come up, or do we want to have some specific procedures. Mr. Reep thought he left the impression with those that were overpaid, that we were going to hire an auditor to get that certified one way or another in an independent accounting, but now that we don't have that, we are back at square one.

Mr. Moore's thoughts were that if we can go back out and say, we just want review of those specific over payments/ underpayments, so that is very limited in scope, then we would probably get some bidders.

Mr. Reep said we used to have the old audit, where it was "simplified" in that it did not have benefit recalculation, it benefit totals per year. Would the board be comfortable doing that again?

Ms. Lenehan said she believed that was already included in the City's audit. Mr. Moore said it is included and thought what the board wanted was a review of the Pension Office's work on these particular accounts. He thought the Board needed to decide how to put the RFP back out.

Ms. Wood said that since the people who were over paid prompted the request for review, that maybe we could include all the ones that were over and underpaid, and let them audit that, and then just review the procedures that Pension Office has in place for future calculations.

Mr. Reep said he did not hear from anyone regarding asking Mr. Carreiro. Mr. Moore said we can check with him, and if that is the first option we want to do and then if he declines we can go out for a limited scope. Ms. Lenehan said we could go out for bid and ask that initially for a review of those where staff has found errors of over/under payments, and the based on the results, if they confirm staff work, we have a confidence level that staff's review was pretty good. If they find a lot of errors in what staff has done, than maybe we would want to have the option to expand procedures based on the out come of the initial review.

Mr. Morehead, President of Local 34, stated Resolution 99-1 was a turning point. There were a lot of members retiring that year, and if his memory was correct, there were no retirements for a period of five years, then in 1999 there were twenty or thirty, so how hard would it be to review the twenty or thirty in 1999, and then there was probably the same amount in 2000, but from that point on, it starts dropping of to seven or eight a year. Ms. Lenehan said she thought part of the concern, was the Pension Office received a statement from the payroll office, or HR that identified what the benefit should be. She did not know if they can get to the records prior to that to revalidate the initial amount of the pension. Mr. Morehead asked if we know what the salary, and incentive amounts, why would it hard to get to that information.

Mr. Moore, asked if a review of all the individuals that were overpaid or underpaid, and review of staff's work, which in a sense, they are reviewing their procedures. If we find significant errors, then we would know we need to do a comprehensive review of this, but if they conclude, that these figures are accurate, which means they have reviewed these procedures, then he would feel comfortable moving forward. He thought the purpose was to review those individuals that we had found to be overpaid or underpaid. If something goes back out for bid that says this is what we want you to do, and they validate it one way or another that would give us a sense of what we need to do next. We should be able to find someone to do this.

Mr. Lundy said he would call Jody Carreiro to see if there is someway to set up that review process through the PRB where the Board could make a request, and maybe it would cost a little less money if you go through the PRB. Ms. Lenehan said she had been in contact with Mr. Carreiro lately too, and could ask him if he would be available, and if the Board wants her to proceed she would do that. Mr. Moore asked if the Board had to go to the PRB to request this service. Mr. Lundy said no, you do not have to; it was his thought that if you went through the PRB, maybe they could get Mr. Carreiro to do a review through the PRB's contract and it might cost less money to have it done. Mr. Reep was in favor of asking Mr. Carreiro to come to the next meeting, and we could ask him at the next meeting to see if he is interested.

Ms. Raley said if it is for services of agreed upon procedures, or an audit, she thought the Board needed to move to bid that. Going through the PRB is not a bid, but it also is not really his primary function for the PRB. She asked Mr. Lundy if that were his primary function. He answered no, but under the contact it could be made his function.

Ms. Lenehan said they could make sure the wording does not exclude an actuarial firm from participating, and be sure that he is notified when it is published, so that he has an opportunity to bid. Mr. Moore said that would be his preference. He felt the Board could still go out for an RFQ, but it would be limited in scope.

The Board decided to take no action and table the RFQ question until the next meeting.

There was no other business to discuss. Mr. Wright made a motion to adjourn seconded by Mr. Jacks. By unanimous voice vote of the Board members present, the meeting adjourned at 11:10 AM.

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Nancy Wood
Secretary, Firemen's Relief and Pension Fund