

# **LAKE WORTH FIREFIGHTERS' PENSION TRUST FUND**

## **MINUTES OF MEETING HELD**

**January 27, 2003**

James Shook called the meeting to order at 9:34 A.M. in the Conference Room at Station 1, Lake Worth, Florida. Those persons present were:

### **TRUSTEES**

James Shook

Rich Seamon

Mark Lamb

### **OTHERS**

Margie Adcock, Administrator

Adam Levinson, Attorney

Tim Sipe

Linda Painter

### **ADDITIONS AND DELETIONS**

It was noted that Linda Painter was in attendance from the Clerk's Office and that the Board would allow her to present her issues at the beginning of the meeting. Mr. Seamon requested that future agendas have a bullet point for unfinished business. Mr. Seamon would like to add under unfinished business the topic of the healthcare supplement.

### **MINUTES**

The Trustees discussed the minutes of November 25, 2002. It was requested that language be added to the portion under the early retirement incentive program that the information given to Mr. Levinson was not provided directly from the City. Rather it was provided by the City to members and then forwarded to Mr. Levinson for review. A motion was made, seconded, and carried 3-0 to accept the minutes of November 25, 2002 as amended.

### **REQUEST FROM THE CITY CLERK**

Linda Painter appeared before the Board from the Clerk's Office. She stated that the Florida State Statutes require a records disposal management program. She advised that up until now the City has been behind in doing that and they have been trying to catch up on that this past year. She stated that the City has not disposed of anything for the Fire Pension but they have for the Police and the General Employee. She noted that they are required to keep minutes as permanent records and are in the process of binding the Police and General Employee minutes and would like to do the same for the Fire Pension. That would cost a little for the shipping back and forth and for it to be bound. She was appearing before the Board to ask for permission to destroy old records that have met the records retention schedule of GS 1L and for binding the minutes.

Adam Levinson advised the Board that he sent out a memorandum in 2001 and stated that the general rule is different from that of the City. He provided the Board with a general background on the records retention law. He stated that it was apparently the City's position that if they can destroy a record under law then they want to destroy it.

He stated that a public entity is prohibited from destroying records unless they are permitted to. The law does not say that the records have to be destroyed, just that they can under certain conditions. Mr. Levinson advised that it was his recommendation to the Board not to destroy any records relating to the Fund. He stated that the City needs permission from the Board to destroy any records because the Fund is a separate entity.

With respect to binding the minutes, Mr. Levinson stated that he had no problem with that. He noted that it would be fine to give the City copies of the minutes so long as the Fund keeps another copy for its records. Ms. Painter advised that they would normally bind the original minutes. Ms. Adcock raised a concern about binding the original minutes in the event copies of minutes were requested in the future.

Ms. Painter stated that if the Board was not going to authorize that any old records be destroyed, then it will need to take over the documents. She thought there were about two boxes, but was not sure if that was all of it or not. Mr. Levinson stated that someone on the Board would need to look into finding a storage place for the documents that are currently in the City's possession.

**ACTION:** A motion was made, seconded and carried 3-0 that the City not be given authority to destroy any records of the Fund and to approve the allowance of the City to bind the old minutes of the Fund. Ms. Painter advised that she would contact the Administrator for anything further they needed to bind the minutes through 2000.

Mr. Levinson then discussed about the Records Management Liaison Officer. He noted that the City Clerk is the RMLMO for the City, but the Board can appoint their own RMLMO. He noted that an annual report is only necessary to be filed with the State if any records are destroyed.

Linda Painter departed the meeting.

## **ATTORNEY REPORT**

### **PENSION CALCULATIONS**

Adam Levinson provided an update on the December 2, 2002 letter he sent to Chuck Powers. Mr. Levinson reminded the Board of the letter. He said he followed up with several telephone calls to the Finance Department. On Friday he called over and left a message for Chuck Powers inviting him to the meeting today. The Board now needs to discuss how to proceed. The Board noted that there is a retiree that is being paid improperly and this matter needs to get taken care of and legal proceedings need to begin. Mr. Levinson recommended that the Board wait for him to follow up with one more letter advising that the Board wants a response in a certain number of days or the Board will bring a lawsuit.

### **EARLY RETIREMENT INCENTIVE PROGRAM**

Mr. Levinson reported that he received a letter dated January 16, 2003 from the Division of Retirement advising that the Ordinance the City submitted for the early retirement incentive option to certain employees violated the non discriminatory provisions of

Chapter 175. The letter from the Division of Retirement also included copies of other suggested Ordinances with suggested language. Mr. Levinson noted that this matter can be corrected, but the City need to do the correction. He asked the Board for authorization to contact Sugarman's office and Chuck Powers to get the matter resolved so that the Chapter 175 money is not jeopardized.

**ACTION:** A motion was made, seconded and carried 3-0 to direct the Attorney to coordinate with anyone necessary and appropriate to resolve this matter.

### **ORDINANCE CHANGE**

Mr. Levinson advised that the Ordinance changes for Division I and Division II have been combined into one document. He stated that the proposed Ordinance has not yet been sent to the City yet because he was hoping to get a resolution of the other issues regarding the pension calculations. Mr. Levinson noted that the attorney for Division II has called him regarding the status. Mr. Levinson stated that he would send it to the City to get processed. There is no impact to the Ordinance and he sees no harm in going forward with it at this point.

### **EARLY RETIREMENT INCENTIVE PROGRAM**

There was further discussion on the one Participant who elected to participate in the early retirement incentive program. Mr. Levinson advised that David Batignani is retired under the Plan. The Ordinance just needs to be fixed at this point. Mr. Batignani did nothing wrong. Mr. Levinson advised of a case involving a Miramar employee who relied on the Ordinance in retiring under the pension plan. The court found that the fact that the Ordinance was wrong was not the employee's fault.

### **DISSOLUTION OF MARRIAGE**

Mr. Levinson then reported on a court case concerning the effect of a divorce on public pension plans. He provided the Board with a District Court of Appeal decision on whether a pension plan has to pay the spouse directly. Mr. Levinson advised that it has always been their position that a pension plan does not have to pay the spouse directly unless a court treats the payment as alimony or child support

### **ADMINISTRATIVE REPORT**

#### **TRUSTEE POSITIONS**

Margie Adcock provided the Board with an update on the appointments to replace Sam Brandsma or George Schurter. She advised that she was informed from the Clerk's Office that the City Commission is going to make appointment only one time a year and that she did not anticipate any appointments to be made to the Fire Board until at least May.

## **DISBURSEMENTS**

Ms. Adcock presented a list of disbursements to be made. A motion was made, seconded and carried 3-0 to approve the disbursements listed. There was also an additional disbursement for DePrince, Race & Zollo that was received at the station. A motion was made, seconded and carried 3-0 to approve the payment to DePrince, Race & Zollo.

## **OTHER BUSINESS**

### **RETIREE HEALTH INSURANCE**

Rich Seamon reported that he received the cost study from Steve Palmquist on the three options proposed for retiree health insurance. Mr. Seamon stated that he would like Mr. Palmquist to give the cost numbers for a 30 year averaging versus a 5 year averaging. Mr. Levinson advised that he would request from Mr. Palmquist that he provide the cost numbers on a 30 year average.

### **MULTIPLIER**

There was then discussion on increasing the multiplier. It was noted that a cost study has been performed in the past but that it should be updated. A motion was made, seconded and carried 3-0 to update the 3% multiplier information. Mr. Levinson advised that he would request this updated information from Mr. Palmquist.

### **ADMINISTRATIVE FUNCTIONS**

There was further discussion on the administrative functions of the Plan. The Board advised that it would like to perhaps take some of the functions away from the City and have the Administrator take those functions on. Ms. Adcock advised that they would be more than happy to provide such services to the Board and would provide more information to the Board at the next meeting.

There being no further business, the meeting was adjourned at 12:30 P.M.

Respectfully submitted,

Mark Lamb, Secretary