

**VILLAGE OF PALM SPRINGS GENERAL EMPLOYEES' PENSION FUND
MINUTES OF SPECIAL MEETING HELD
October 13, 2020**

An electronic meeting was called to order at 2:00 P.M. Those persons present were:

TRUSTEES

Patti Waller
Ed Horton
Richard Reade

OTHERS

Bonni Jensen, Fund Counsel
Margie Adcock, Administrator
William Davis, Participant
Craig Boudreau, Attorney for William Davis
David Miller, Village Attorney
Jane Worth, Village Clerk

MINUTES

The Board reviewed the minutes of the meeting held August 4, 2020. It was noted that on page 3 David Miller was incorrectly listed as Dan Miller. A motion was made, seconded and carried 3-0 to approve the minutes of the meeting held August 4, 2020 as corrected.

APPROVAL OF AGENDA

Ms. Waller stated that she would like to move item 6c Election of Vice-Chairperson and Secretary under Other Business to the November meeting. She stated that she would like to add the Notice of Candidacy to Other Business. A motion was made, seconded and carried 3-0 to amend the Agenda.

**APPROVAL OF THE GENERAL EMPLOYEES' PENSION FUND MOTIONS
FROM AUGUST 4, 2020 MEETING**

Ms. Jensen noted that at the August 4, 2020 Board meeting there was an issue raised about the process by which the Ordinance was passed by the Village. The Village Attorney opined that the Ordinance was passed appropriately on first consideration, but in an abundance of caution the Village redid the passage of the Ordinance. She stated that there were sufficient members voting at the August 4th meeting to make valid actions. As such, even in the absence of Mr. Reade all the actions were appropriate. However, in an abundance of caution and in reliance on the actions taken by the Village, she is recommending that the Board approve the actions made at the August 4th meeting.

- a. Minutes of May 5, 2020 Meeting
A motion was made, seconded and carried 3-0 to approve the minutes of the meeting held May 5, 2020.
- b. Discussion & Action of Benefit Forfeiture - William F. Davis, Jr.

The Board asked Mr. Davis if he would like to speak, Mr. Davis stated that his attorney was not present, and he did not have much to say. He stated that he did not do anything wrong. He apologized to the Board for all of this.

1. Motion to find Mr. Davis' Rights and Privileges to be Forfeited Under the Pension Plan
A motion was made, seconded and carried 3-0 to find reason to believe Mr. Davis' rights and privileges are required to be forfeited under the Pension Plan.
2. Motion to have DOAH Handle the Hearing in this Matter
A motion was made, seconded and carried 3-0 to have DOAH handle the hearing in this matter.
- c. Motion to raise \$250,000 in Cash for the Payment of Fund Benefits and Expenses
A motion was made, seconded and carried 3-0 to raise \$250,000 in cash for the payment of Fund benefits and expenses.
- d. Amendment to the Ordinance Required by the SECURE Act. Motion to Send Ordinance to the Village.
A motion was made, seconded and carried 3-0 to send the proposed Ordinance to the Village.
- e. Motion to Pay All Disbursements
A motion was made, seconded and carried 3-0 to pay all listed disbursements.
 1. Motion to Renew the Fiduciary Liability Insurance with the Cost not to Exceed \$2,500
A motion was made, seconded and carried 3-0 to renew the Fiduciary Liability Insurance with the cost not to exceed \$2,500.

ATTORNEY REPORT

Ms. Jensen discussed the selection of the Attorney for the Fund for the matter involving Mr. Davis. She stated that by consensus, the Board asked her to locate attorneys to represent the Board in the matter of Mr. Davis. She provided the Board with background information regarding the four attorneys that would be making presentations.

Richelle Levy, Rice Pugatch Robinson Storfer & Cohen

Richelle Levy appeared before the Board. She stated that she is a member of a three-person team that is part of a larger firm. She stated that she has worked with the team for 15 years and they merged with the larger firm 7 years ago. She stated that her team has maintained autonomy. They are based in Ft. Lauderdale. She stated that she has been an attorney in Florida for 25 years. She has spent 23 years representing pension plans, the last 15 exclusively being public pension boards. She stated that she has a unique perspective as she is familiar with all appropriate chapters of Florida Statutes related to public pension plans. She stated that her area of expertise is public pension boards. She has been special advocate for pension boards for disabilities, forfeitures and appeals. She explained what she would do for the Board if engaged. She gave a background of the process. She stated that the process tends to be the same regardless of whether it is a disability, forfeiture or appeal. She stated that she would obtain the file, review it, and make a plan. She stated

that pension boards usually keep the process in front of themselves and not go to DOAH. She would do discovery, conduct depositions, and discuss the matter with the Board. It would be set for hearing and progress through those steps.

Richelle Levy departed the meeting.

Gregg Rossman, Rossman Legal

Gregg Rossman appeared before the Board. He stated that he has worked with Ms. Jensen in forfeiture cases previously. He has a background in criminal law. He has been a lawyer for 26 years, 20 years as an Assistant State Attorney. He went into private practice and started to advise police departments on the operational side. He stated that due process matters in every proceeding. He reviewed his prior experience of arguing before pension boards, and DOAH. He stated that all of his cases have been upheld on appeal. He stated that he has had three forfeiture cases go to trial. He stated that he has a four-person firm with three attorneys. He handles everything himself. He stated that he is used to working with government agencies and believes his rates are reasonable.

Gregg Rossman departed the meeting.

Jim Linn and Glenn Thomas, Lewis Longman Walker

Jim Linn and Glenn Thomas appeared before the Board. Mr. Linn stated that he has been a lawyer for 33 years. Their firm has four offices with the West Palm Beach office being their largest office. He stated that they work out of their Tallahassee office. He stated that he grew up in Palm Beach County and moved to Palm Springs for junior high. He has spent most of his legal career doing pension work. He stated that they represent quite a few local governments and a fair number of boards. He stated that they are pretty much devoted to all things pension. They have a good understanding of the laws and how they effect the local pension boards and the forfeiture provisions. He introduced Mr. Thomas, noting that he has had a number for forfeiture proceedings at all levels.

Mr. Thomas stated that he was from Broward County. He retired from BSO and has been doing pension law for 18 years. He is Board Certified in local government law. He stated that he was experienced with evidentiary rules. He served briefly as a hearing officer and heard cases. He has been on every side of the issue on behalf of employers and boards. Mr. Thomas stated that he would be the lead attorney. He has handled 10 forfeiture hearings and one was appealed and upheld. There was discussion on fees and travel costs. Mr. Linn stated that they would handle the travel from the West Palm Beach office.

Jim Linn and Glenn Thomas departed the meeting.

It was noted that Jeffrey Pheterson was not yet available so the Board would continue with Other Business.

OTHER BUSINESS

It was noted that Mariana Ortega resigned from the Board. The Board was provided with a proposed Notice of Election. The Notice will be sent to the active members in the Plan to begin the process for a replacement.

There was discussion on the vacant position of the 5th Trustee. Mr. Reade stated that he spoke with the Clerk's Office regarding advertising for the position. It was noted that a notice could not be put in with the water bill but they would see where else they might be able to post a notice.

Ms. Jensen stated that when the Governor entered his last Executive Order suspending the requirement to meet in public through November 1, he stated that it would be the last extension. As such, the next meeting will most likely need to be in person.

Ms. Jensen stated that she finalized the contact with DOAH. The rate is \$155 an hour. DOAH has been holding hearings remotely so she expects the same for the Davis hearing.

I. Jeffrey Pheterson, Ward Damon

Jeffrey Pheterson appeared before the Board. He stated that he has been involved in labor and employment law since 1976. He has represented employees, public employers, and pension plans on the widest spectrum of issues. He stated that he fully understands that a forfeiture proceeding is a very sensitive matter. The Board needs to protect the rights of the participants in the Plan and the matters may involve long time employees. He discussed the cases that he has worked on. He stated that he does not have as much experience on the pension plan side as he does on the defendant side. He has represented 4 or 5 cases. He stated that he was an Administrative Hearing Officer at PERC for a while.

DISCUSSION ON THE SELECTION OF AN ATTORNEY

Ms. Jensen stated that the Board has heard from four attorneys. They each have a different perspective, and all have a good background. The Board reviewed each of the attorneys and their qualifications. There was a lengthy discussion. A motion was made, seconded and carried 3-0 to hire Lewis Longman Walker subject to travel being resolved.

PUBLIC COMMENTS

There were no public comments

There being no further business, the meeting was adjourned.

Respectfully submitted,

Patti Waller, Chair