

## Minutes of the Firefighter's Pension Board Meeting

Chairman Ronald Glass called the meeting to order on Thursday, April 21, 2011 at 9:10 a.m., 2<sup>nd</sup> floor, conference room R, City Hall at 400 S. Orange Avenue, Orlando, Florida. There was a quorum.

### **Members Present:**

Ronald Glass, Chairman  
Shannon Raybon, Vice-Chair  
Michael Droege, Secretary  
Kevin Edmonds, Trustee  
Mario Garcia, Trustee

### **Also Present:**

Christopher P. McCullion, Executive Director  
James B. Loper, Board Attorney  
Amanda Green, Department Advocate  
Katie Zuccarini, Employee Benefits  
S. Clelland, IAFF Local 1365  
John Panzella, Disability Applicant  
Mike Clelland, Attorney for Applicant  
Rochelle L. Burlon, Pension Coordinator  
J. Pelletier, Retired Firefighter  
Fox 35 News

### **1. DISABILITY HEARING FOR JOHN PANZELLA**

Chairman R. Glass advised that this was the time set for the application for line of duty disability pension of John Panzella. His attorney, Mike Clelland stated that we can begin with his orthopedic condition since he has submitted two disability notebooks. Amanda Green represented the Department. R. Glass informed all present that the hearing was being recorded and indicated that the applicant's package, IME report and statement submitted by the Department Advocate will be accepted into evidence. J. Panzella was sworn in. M. Clelland gave his opening statement. A. Green waived her opening statement. Both attorneys waived closing statements.

**A MOTION THAT BASED UPON COMPETENT SUBSTANTIAL EVIDENCE PRESENTED, THIS IS A PERMANENT AND TOTAL DISABILITY FOR HIS ORTHOPEDIC CONDITION** was made by M. Droege and seconded by K. Edmonds; **MOTION CARRIED UNANIMOUSLY.**

**A MOTION THAT BASED UPON COMPETENT SUBSTANTIAL EVIDENCE PRESENTED, THIS IS A LINE OF DUTY DISABILITY FOR HIS ORTHOPEDIC INJURY** was made by K. Edmonds and seconded by M. Droege; **MOTION CARRIED UNANIMOUSLY.**

**A MOTION THAT BASED UPON THE DOCUMENT SUBMITTED BY THE DEPARTMENT ADVOCATE, THE CHIEF DOES NOT HAVE A LIMITED DUTY POSITION WITHOUT A REDUCTION IN PAY OR BENEFITS,** was made by R. Glass and seconded by M. Droege; **MOTION CARRIED UNANIMOUSLY.**

**A MOTION THAT THE DISABILITY PENSION WILL BE EFFECTIVE MAY 1, 2011** was made by R. Glass and seconded by S. Raybon; **MOTION CARRIED UNANIMOUSLY.**



b. **UPDATE TORMOS V. CITY OF ORLANDO FIREFIGHTERS' PENSION BOARD**

J. Loper gave an update on the Petition for Writ of Certiorari on Mr. Tormos' hypertension case and the Petition for Writ of Certiorari on his lumbar injury which was recently filed.

c. **SURVIVING SPOUSE BENEFITS**

J. Loper reviewed the two forms he has submitted to be used by Employee Benefits: *Affidavit of Marriage (upon retirement)* and an *Affidavit of Marriage (upon death of participant)*. **A MOTION TO APPROVE THE AFFIDAVITS AS PRESENTED** was made by M. Droege and seconded by R. Glass; **MOTION CARRIED UNANIMOUSLY.**

d. **FORMER FIREFIGHTER CARL MEISTER**

Discussion ensued regarding the letter received from former firefighter Carl Meister who feels he should be vested with ten years and seven months of service to a retirement pension. C. Meister's resignation was on January 1, 1966. In this case, the controlling law would be Chapter 23444, as amended by Chapter 61-2605, the latter of which became law on June 22, 1961. According to Section 12, this firefighter didn't have 25 years of active service when he resigned and is not entitled to a monthly pension benefit. The Board will schedule a quasi-judicial hearing to be scheduled in June by telephone since C. Meister lives out of state. He can either have a notary with him or he will be sworn in by the pension coordinator by phone in order to testify.

5. **NEW BUSINESS/GENERAL APPEARANCE**

c. **RETIRED FIREFIGHTER JACK PELLETIER**

J. Pelletier came before the Board to advise that he feels he is entitled to additional COLA payments even though he is over 65 years old. The law in effect when J. Pelletier retired was Chapter 88-518, Laws of Florida (Special Acts of 1988) which became law on July 7, 1988, and stated that firefighters that retire prior to age 61 with 25 or more years of credited service shall receive a triennial cost-of-living increase of 5 percent compounded starting 3 years after retirement and ending with the last triennial anniversary of retirement prior to age 65. The Plan language was changed in 2000 but was not retroactive and did not change the rights and obligations of members of the OFD who retired prior to October 1, 2000.

J. Pelletier stated that this could be interpreted as age discrimination. The Board attorney will research this and see if it can be construed as age discrimination.

**A MOTION TO HAVE THE BOARD ATTORNEY RESEARCH THE AGE DISCRIMINATION ISSUE ONLY** was made by M. Droege and seconded by R.

Glass; **MOTION CARRIED UNANIMOUSLY.** J. Pelletier will be notified when the board reviews the results from J. Loper.

a. **GAWLER V GAWLER DIVISION OF BENEFITS**

J. Loper reviewed the information he sent to Scott Gawler regarding his Order on Division of Benefits. The Board is only authorized to pay alimony and child support directly to a former spouse. The Board cannot pay spousal benefits for an equitable distribution of marital assets under state law.

b. **APPROVAL OF TRAVEL FOR M. DROEGE**

**A MOTION TO APPROVE THE TRAVEL FOR M. DROEGE TO ATTEND THE NCPERS CONFERENCE IN STATE, AND TO APPROVE THE TRAVEL FOR R. GLASS SHOULD HE DECIDE TO ATTEND THE CONFERENCE AS WELL;** was made by R. Glass and seconded by S. Raybon; **MOTION CARRIED UNANIMOUSLY.**

d. **REEXAMINATION AND RECALL OF RETIRED PERMANENTLY DISABLED EMPLOYEES**

J. Loper reviewed the document he prepared for Chairman Glass with regard to bringing a retired disabled firefighter back to work if his injury is no longer an issue. In his research he determined that if the Board wanted to bring anyone back, they couldn't have any other disabilities, would have to have the present Chief want to hire him or her back as an active firefighter, and have it confirmed by the City Commissioners. **A MOTION TO HAVE THE BOARD ATTORNEY DEVELOP A POLICY ON REEXAMINATION AND RECALL AND BRING IT TO THE NEXT MEETING** was made by M. Droege and seconded by R. Glass; **MOTION CARRIED UNANIMOUSLY.**

e. **NOTICE OF APPEARANCE/ORLANDO IAFF LOCAL 1365**

Steve Clelland approached the Board regarding the Florida Chamber of Commerce and their affiliation with five local banks stating that the Chamber had lobbied for legislation at the State level this year that were hostile to public employees and public labor unions. The five banks are Bank of America, PNC Bank, Regions Bank, Sun Trust and Wachovia. Executives from these banks sit on the Florida Chamber's board of directors, and the chamber has pushed legislation that would prohibit state and local governments from collecting union dues through payroll deduction, among other items. S. Clelland would like the Pension Board to withdraw any monies we have in these banks and if possible with minimal effort move the pension funds into a bank that is offering the same services. They will also be approaching the City Council to possibly change all City banks as well.

C. McCullion advised that the pension funds do not have money directly in these banks except once a month when our custodian Bank of New York Mellon sends money to Bank of America (the City's depository bank) to pay the monthly retirement checks out of the City's payroll account. The vast majority of pension fund assets are held by the Custodian. He will work with Katrina Laudeman to evaluate the alternatives.

**A MOTION TO HAVE THE BOARD ATTORNEY RESEARCH OUR LEGALITY AND OUR FIDUCIARY DUTY WITH REGARD TO THIS SITUATION IN ORDER TO PRESERVE THE INVESTMENTS OF THE PLAN** was made by M. Droege and seconded by M. Droege; **MOTION CARRIED UNANIMOUSLY.**

**A MOTION TO HAVE THE EXECUTIVE DIRECTOR OBTAIN A LIST FROM OUR INVESTMENT MANAGERS TO FIND OUT IF OUR INDIVIDUAL HOLDINGS ARE INVESTED IN THESE BANKS BY THE NEXT MEETING** was made by S. Raybon and seconded by M. Droege; **MOTION CARRIED UNANIMOUSLY.**

Discussion ensued regarding various legislative bills.

The Meeting adjourned at 11:00 a.m.

Respectfully submitted,

*Rochelle L. Burlon*

Rochelle (Shelly) L. Burlon  
Pension Coordinator