

Minutes of the Firefighters Pension Board Meeting

Chairman Ronald Glass called the meeting to order on Thursday, July 15, 2010 at 9:00 a.m., 2nd floor, conference room R, City Hall at 400 S. Orange Avenue, Orlando, Florida. There was a quorum.

Members Present:

Ronald Glass, Chairman
Rebecca W. Sutton, Trustee
Michael Droege, Secretary (by phone)
Mario A. Garcia, Trustee
Shannon Raybon, Trustee

Also Present:

Christopher P. McCullion, Executive Director
James B. Loper, Board Attorney
Rochelle L. Burlon, Pension Coordinator
Katie Zuccarini, Employee Benefits
Amanda Green, Department Advocate

1 KENNETH O. MITCHELL HEARING

R. Glass advised that this is the time set for the hearing of Kenneth O. Mitchell. K. Mitchell was not represented by an attorney and there was no court reporter. J. Loper reviewed the documents that Mr. Mitchell presented to the board yesterday and the additional exhibits previously given to trustees, totaling seventeen exhibits to be added into evidence. J. Loper reviewed the legal issues. K. Mitchell and K. Zuccarini were sworn in by R. Burlon.

K. Mitchell gave his opening statement and advised that he would like to be reinstated into the Firefighters' Pension Fund and start collecting his pension. He brought to the hearing his equipment which he never returned to the Department. He stated that he never received a refund check for his contributions that he made into the plan prior to his termination.

A. Green gave the Department's opening statement and stated that from 1991-2010 Mr. Mitchell never contacted the Pension Board, nor did he ever attempt to get his final check. She also stated when Mr. Mitchell first appeared before the board in April, 2010 he never mentioned that he still had his City equipment nor did he return the equipment to Station I.

A. Green called K. Zuccarini to testify. Questions were asked by the trustees and J. Loper of K. Mitchell.

K. Mitchell gave his closing statement. A. Green gave her closing statement. J. Loper reviewed the issues presented.

A MOTION THAT BASED UPON THE EVIDENCE AND FACTS PRESENTED, KENNETH O. MITCHELL DID NOT MEET THE BURDEN OF PROOF OF PRESENTING COMPETENT AND SUBSTANTIAL EVIDENCE THAT HIS REFUND OF CONTRIBUTIONS WAS NOT RECEIVED, SINCE DOCUMENTS SHOW AN

ELECTION WAS MADE BY THE BOARD OF TRUSTEES IN AUGUST, 1991 TO REFUND HIS CONTRIBUTIONS. EVIDENCE ALSO STATES THAT A CHECK WAS CUT AND MAILED. THE BOARD CANNOT WAIVE THE FIVE YEAR STATUTE OF LIMITATIONS SINCE ALMOST NINETEEN YEARS HAVE PASSED. THEREFORE, K. O. MITCHELL CANNOT BE REINSTATED TO THE PENSION FUND AND HE IS NOT ENTITLED TO A MONTHLY PENSION; was made by R. Sutton and seconded by S. Raybon; **MOTION CARRIED UNANIMOUSLY.**

J. Loper advised that a Final Order will be issued, signed by the Chair, filed with the Pension Coordinator and sent to Mr. Mitchell by certified and U.S. mail. K. O. Mitchell can appeal the Board's decision to the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, by Petition for Writ of Certiorari within thirty days from the date the Final Order is filed with the Pension Board.

2. **MINUTES**

A MOTION TO APPROVE THE MINUTES AS PRESENTED was made by S. Raybon and seconded by M. Droege; **MOTION CARRIED UNANIMOUSLY.**

3. **CONSENT AGENDA**

<u>Name</u>	<u>Date of Retirement</u>
James Reynolds #5796 \$9,327.85 Monthly	June 1, 2010

A MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED was made by M. Droege and seconded by R. Sutton; **MOTION CARRIED UNANIMOUSLY.**

4. **PENDING/OLD BUSINESS**

a. **STATUS OF DISABILITY APPLICATIONS**

S. Burlon gave updates on the pending disability applicants.

Jeff Cervenka

IME scheduled for August 3, 2010.

John Tormos

MRI films were submitted by applicant. Questions were submitted by Board Attorney for Dr. Homan. Amanda Green and the applicant's attorney will be scheduling a deposition with the IME physician.

b. **HIGHER CLASS PAY UPDATE**

C. McCullion advised that the active employees affected by the higher class pay going towards their pension contributions, will be receiving refunds in the July 30, 2010 paycheck or as soon thereafter. It was also determined that no retirees will be getting refunds since their contributions were included in their final average earnings.

M. Droege left the meeting.

c. **SHARE PROGRAM UPDATE**

Amanda Green and David Rafanowicz will be meeting one more time to review the Ordinance. It should be ready for City Council by the August 16 or August 30, 2010 Meeting. We also need to get a Memorandum of Understanding from Local 1365.

A MOTION TO DIRECT THE CHAIR AND EXECUTIVE DIRECTOR TO REQUEST A FORMAL PROPOSAL FROM NATIONWIDE TO ADMINISTER THE SHARE PLAN, was made by S. Raybon and seconded by R. Sutton; **MOTION CARRIED UNANIMOUSLY.**

A MOTION TO DIRECT THE ACTUARY TO PREPARE DISTRIBUTIONS FOR CALENDAR YEAR 2009 AND CHARGE THEIR FEE TO THE SHARE PROGRAM AND NOT THE PENSION FUND; was made by R. Sutton and seconded by M. Garcia; **MOTION CARRIED UNANIMOUSLY.**

The trustees reviewed a letter that will be sent out to all retirees and beneficiaries who were employed as a City of Orlando firefighter during any of the period of January 1, 1998-June 30, 2009 who at the time of such separation were eligible for monthly benefits from the pension fund. This letter will explain how their share monies will be separately held by the Board of Trustees until a special act is passed by the Florida Legislature authorizing inclusion of such retired firefighters, which special act must be passed before September 30, 2012. However, if no such special act is passed before September 30, 2012 firefighters who separated prior to July 1, 2009 will not be included in the Share Program. Local 1365 and the City have agreed to seek passage of a special act authorizing inclusion. The ordinance will be placed on the pension fund website as soon as finalized by City Council.

M. Garcia left the meeting at 10:35 a.m.

d. **HEART ACT ORDINANCE UPDATE**

C. McCullion advised that the ordinance has been voted on by the members and is ready to go to Council for approval. When the Share Program Ordinance goes to City Council this ordinance will go with it.

5. **NEW BUSINESS/GENERAL APPEARANCE**

a. **ROBERT MARKWARD**

D. Rafanowicz is obtaining the final disposition and A. Green will follow up with him.

Meeting adjourned at 10:40 a.m.

Respectfully submitted,

Rochelle L Burlon

Rochelle L. Burlon
Pension Coordinator