



City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

Boards of Trustees of Police Officers' and Firefighters' Retirement Systems September 26, 2006 – 11:30 a.m.

Chairman Rivard called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Police Officers' Retirement Trust Fund:

Joseph Whitehead, Chairman
Randy Durniak, Secretary
William MacIlvaine
Nancy Oppenheim
Perian Salviola

Firefighters' Retirement Trust Fund:

James Rivard, Chairman
James McEvoy, Secretary
Daniel Keller
William MacIlvaine

Absent:

Marc Gertner (excused)

Also Present:

Dorothy King, Pension Accountant
Brenda Blair, Technical Writing Specialist
Stephen Palmquist, Gabriel, Roeder, Smith
Robert Sugarman, Sugarman & Susskind
Other interested citizens and visitors.

ITEMS TO BE ADDEDITEM 2

Add to Item 7: Request for annual review of investment guidelines.

APPROVAL OF MINUTESITEM 3

***MOTION** by MacIlvaine to **APPROVE** the May 12, 2006, meeting minutes as presented; seconded by McEvoy and carried without objection (Gertner absent).*

APPROVAL OF RETIREMENTSITEM 4

***MOTION** by MacIlvaine to **APPROVE** retirement applications of Firefighters Samuel Cadreau and Daniel Malinowski; seconded by McEvoy and unanimously carried (Gertner-absent, Keller-yes, MacIlvaine-yes, McEvoy-yes, Rivard-yes).*

***MOTION** by Durniak to **APPROVE** retirement application of Police Officer Steven Moore and return of pension contributions (termination) to Antonios Kokkinos, Anna Horowitz, Patrick Gibson, Samuel McGregor, Michael Chandler, and Michael Kellner; seconded by Whitehead and unanimously*

carried (Durniak-yes, MacIlvaine-yes, Oppenheim-yes, Salviola-yes, Whitehead-yes).

MOTION by MacIlvaine to ***APPROVE*** return of pension contributions (termination) to Tulio Sandoval; seconded by McEvoy and unanimously carried (Gertner-absent, Keller-yes, MacIlvaine-yes, McEvoy-yes, Rivard-yes).

.....**ITEM 5**
DISCUSSION WITH STEPHEN PALMQUIST RELATIVE TO FIREFIGHTERS' COLA (COST OF LIVING ADJUSTMENT) AMENDMENT

Chairman Rivard explained that this issue relates to correspondence previously reviewed by the Board (in May) from Patricia Shoemaker, Benefits Administrator, Florida Division of Retirement, rejecting the City's amended Firefighters' Pension Plan Ordinance. This was due to a proposed increase in employee contributions is deemed to be in violation of state law, which allows firefighter contributions to be increased only in order to provide greater benefits. The City subsequently hired the Gray Robinson law firm; having received correspondence regarding the matter from Attorney Kelley Bosecker of the Robinson firm, the City Manager called a special meeting of the parties involved (see Attachment 1). He noted however, that Attorney Bosecker's correspondence had reflected few of the points in Ms. Shoemaker's letter and had requested that the Board obtain an updated actuarial impact statement. He also noted that the correspondence from City Manager Robert Lee (Attachment 1) recommended against requesting a new actuarial impact statement since a clarification from the aforementioned attorney had not yet been obtained. Trustee McEvoy noted however that a new actuarial impact statement had been performed when the pension benefits were changed which showed that the benefits were cost neutral and therefore there is no reason for the Board to request a new statement; the City however can request a new actuarial study any time at the City's expense. Chairman Rivard noted that the Board cannot make decisions in this regard since pension benefits are subject to collective bargaining.

Attorney Robert Sugarman further noted that the funds held in reserve by the State are to be used for extra benefits, the cost of which is determined when the benefit is enacted; however, if the benefit cost increases in subsequent years, the State does not allow the use of future revenue to fund that increase. He then noted that there had been no changes to the pension statutes unless both the Florida League of Cities and the unions agree, these two entities possessing equal power. He suggested that the City may wish to address this issue with its contacts at the Florida League to seek legislative relief; nevertheless, nothing can be done until the next legislative session the following year. Actuary Stephen Palmquist reiterated that the state questioned raising employee contributions without providing some type of benefit, noting that there was sufficient state revenue to fund the increase in COLAs (cost of living adjustments). In response to Trustee McEvoy, Actuary Palmquist reiterated that long-term costs includes some percent of payroll, however, the state only focuses on the cost of that benefit the first year. He confirmed that the increase in contributions by employees as salaries are raised is already taken into account when developing the cost of a benefit.

Attorney Sugarman then explained that when negotiations are reopened, an actuarial study will be required and suggested that the parties use the Board's actuary, Gabriel, Roeder, Smith, and suggested that the Board take action to authorize that firm to perform these studies at the request and the expense of the bargaining parties, since Gabriel, Roeder, Smith will not perform any work for any other entity with the City without Board permission. Chairman Rivard noted that

the City Manager is not requesting an updated actuarial report at that time (see Attachment 1) since he said he felt it was important for the City and the firefighters' union to be clear on the details of the matter before making a recommendation to the Pension Board. He clarified for Attorney Sugarman that the Board had in fact received its revenue from the State, however, Attorney Sugarman suggested that the Board take action to give the parties permission to use the services of Gabriel, Roeder, Smith (at their expense) in the event the parties come to an agreement before the November pension board meeting; this would allow the process to move forward unimpeded. Actuary Palmquist concurred.

MOTION by McEvoy to AUTHORIZE Actuary Gabriel, Roeder, Smith to perform actuarial studies for either the City, the union, or both entities based on three conditions: 1) that the expense be underwritten by the City, 2) that the work to be performed be shared with both parties; and 3) that the aforementioned actuarial work be shared with the Fire Pension Board. This motion was seconded by Keller and unanimously carried (Durniak-yes, MacIlvaine-yes, Oppenheim-yes, Salviola-yes, Whitehead-yes).

Trustee McEvoy asked whether firefighters retiring in December would receive the current COLA (2.75%) or the proposed increase (3.00%) since the ordinance had been adopted by City Council. Attorney Sugarman explained that it is incumbent upon the Board to administer the ordinance as written, which includes a requirement to increase employee contributions; the consequence in doing so, however, is the loss of revenue from the State. Chairman Rivard noted that normally a supplemental check from the State is received in September; however, this had not yet occurred. Actuary Palmquist noted that this would nevertheless not become an issue until the latter part of 2007 if not resolved. Attorney Sugarman noted that if the State disallows the collection of employee contributions, those contributions received prior to resolution of this matter must be returned to the employees; and whether the COLA will remain the same or be increased will be decided during the contract negotiations.

.....ITEM 6
CONSIDER REAPPOINTMENT OF MARC GERTNER (FIREFIGHTERS' RETIREMENT TRUST FUND) AND PERIAN SALVIOLA (POLICE OFFICERS' RETIREMENT TRUST FUND)

Chairman Rivard referred to correspondence from the City Clerk (a copy of which is contained in the file for this meeting in the City Clerk's Office) stating that both the aforementioned trustees have expressed an interest in continuing to serve, indicating that no other applications have been received and that both are eligible for reappointment.

MOTION by McEvoy to REAPPOINT Marc Gertner to the Firefighters' Retirement Trust Fund; seconded by Keller and unanimously carried (Gertner-absent, Keller-yes, MacIlvaine-yes, McEvoy-yes, Rivard-yes).

MOTION by Whitehead to REAPPOINT Perian Salviola to the Police Officers' Retirement Trust Fund; seconded by Durniak and unanimously carried (Durniak-yes, MacIlvaine-yes, Oppenheim-yes, Salviola-yes, Whitehead-yes).

CORRESPONDENCE/ANNOUNCEMENTS/COMMUNICATIONS.....ITEM 7

Attorney Robert Sugarman explained that retired Fire Chief George Smith's pension was due to be reduced with the death of his joint annuitant (wife) in December 2002, since the ordinance provided that when either the member or the spouse died the benefit would be reduced under the joint and survivor option selected by Mr. Smith. As the result of an amendment on March 1, 2006, however, a member's benefit remains the same. Since Mr. Smith's benefit had in fact not been reduced when his spouse died, Attorney Sugarman said it was his opinion that the

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amendment to the ordinance justifies increasing Mr. Smith's benefit. However, Mr. Smith owes the City the difference, commencing the beginning of 2003 through the first two months in 2006 unless the aforementioned amendment (see Item 5 above) is made in the joint and survivor benefit provision retroactive to December 2002. In that case, Mr. Smith would not be liable for the above payment. Although the amount had been calculated, Pension Accountant Dorothy King indicated that no collection initiative had commenced since the amendment outcome is unknown. Mr. Sugarman confirmed for Trustee McEvoy that with retroactivity to December 2002, neither would there be an adverse impact to the pension fund nor would funds be collected from Retired Chief Smith.

MOTION by MacIlvaine to RECOMMEND to the City Manager and City Attorney changing that portion of the Firefighters' Pension Plan Ordinance that removes the joint and survivor option retroactive to December 2002; seconded by McEvoy and unanimously carried (Gertner-absent, Keller-yes, MacIlvaine-yes, McEvoy-yes, Rivard-yes).

Attorney Sugarman reviewed a report prepared by his firm concerning the Pension Protection Act of 2006 (a copy of which is contained in the file for this meeting in the City Clerk's Office) pertaining to public safety officers (police and fire) who are already receiving normal or disability retirement, who purchased retiree health or long-term care insurance only from the City of Naples. If all of the above apply, those employees can make an advance annual election in writing to have up to \$3,000 of the amount that is spent on health insurance (including any dependents) deducted from their taxable pension income. This \$3,000 deductible also applies to the aforementioned retirees who have health insurance through their 457(b) plan. The process is as follows: Authorize the City to make the deduction; elect up to \$3,000 deducted from taxable pension income; and coordinate this action with Northern Trust to ensure that the aforementioned \$3,000 is not reported as taxable income. The only thing required prior to the end of the year is for eligible retirees to make this election; and for those retirees that are self-paying to begin having the deduction made. No action is required by the Board since this is an administrative function; this action takes effect in 2007, Attorney Sugarman said.

The other change deals with lump sum payouts, which requires payment of federal income tax, and payment of an additional 10% penalty if under the age of 55. That age 55 has now been lowered to 50, Mr. Sugarman said. Other portions of the law that permit tax-free rollovers has not been changed. He further noted that the aforementioned report contains other changes to the law; however, none will represent a substantial impact on police and fire plans. In response to Trustee McEvoy, Attorney Sugarman explained that he would forward the appropriate forms to current retirees and Trustee McEvoy confirmed that there are no current police and fire retirees that had elected a lump sum payout relative to the aforementioned age change.

Attorney Sugarman also noted upcoming seminars for trustee continuing education and offered to conduct a basic education class before the next meeting if so desired.

Request for annual review of investment guidelines

Trustee Keller suggested that Investment Manager Consultant Charles Mulfinger review investment guidelines annually with the Board as well as determining whether the international component could be increased. Mr. Mulfinger agreed.

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ADJOURN **ITEM 8**
12:15 p.m.

James Rivard, Chairman
Firefighters' Retirement Trust Fund

Joseph Whitehead, Chairman
Police Officers' Retirement Trust Fund

Minutes prepared by:

Brenda A. Blair, Technical Writing Specialist

Minutes approved: November 9, 2006



Memo

Office

Attachment 1
Police/Fire Pension Board Meeting
9-26-06 / Page 1 of 2

TO: James Rivard, Chairman of Firefighters Board of Trustees
FROM: Dr. Robert E. Lee, City Manager *[Signature]*
DATE: September 26, 2006
SUBJECT: Agenda Item 5

On the Police Officers and Firefighters Board of Trustees agenda today, there is an item entitled "Discussion with Stephen Palmquist relative to Firefighters' COLA amendment." As part of the board backup for this item, there is a letter from Attorney Kelley A. Bosecker requesting that the Fire Pension Board ask Mr. Steve Palmquist to update an actuarial impact statement. Ms. Bosecker is an attorney the City has retained to assist in working with the Division of Retirement to address their rejection of the City's pension amendment approved in March, 2006.

On September 15, 2006, a meeting was held (at my request) to discuss Ms. Bosecker's letter. Those participating included Kelley Bosecker and Steve Palmquist (by phone), Mike Nichols and Adam Nadelman, representing the local International Association of Firefighters, Fire Board Chairman James Rivard, Denise Perez, and me. The purpose of the meeting was to seek understanding by all present as to the reason for updating the actuarial impact statement. It was determined at this meeting that further clarification was needed and Ms. Bosecker agreed to prepare a letter outlining more specifically the request and reasons for it. It was anticipated that this letter would be received by last Wednesday. Unfortunately, I was informed via voicemail yesterday that Ms. Bosecker has been ill for a week and has only completed a draft.

Given the aforementioned facts, I am not in a position to recommend that the board request an updated actuarial report statement at this time. I feel it is important for the City and the Firefighter Union to be clear on the details of this matter before making a recommendation to the Pension Board.

Please contact me if you need any further information or clarification from me on this matter. Thank you.

Cc: Firefighter Board of Trustees ✓
Human Resources Director Denise Perez
Attorney Kelley Bosecker
Board Actuary Steve Palmquist
Mike Nichols - IAFF
Adam Nadelman - IAFF

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September 5, 2006

Dr. Robert E. Lee, City Manager
City of Naples
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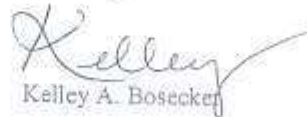
Re: City of Naples Firefighter Pension Plan
Pension Board Approval for New Actuarial Impact Statement for COLA
Amendment

Dear Bob:

This letter is to confirm our telephone conversation of earlier this afternoon regarding the above. As we discussed, in response to Trish Shoemaker's letter stating that the proposed amendment to the firefighter pension plan increasing employee contributions was not approved by the Division of Retirement, we have had several discussions with the Plan's actuary Steve Palmquist. Since the actuarial impact statement for the amendment adding the COLA to the Plan was not adopted until February of 2006, and the actuarial impact statement that was submitted for the amendment was prepared by Ward Foster in April of 2005, it is appropriate at this time to have the current Plan's actuary prepare an updated actuarial impact statement for the amendment. We believe that the updated actuarial impact statement may resolve the outstanding issues with respect to the appropriateness of the employee contribution amendment and the COLA amendment with the Division of Retirement. We would appreciate if you can discuss this with the pension board and have them indicate their approval of the updated actuarial impact statement to Steve Palmquist who can then prepare the updated statement.

If you need any information or have any questions about this matter, please feel free to give me a call. With best regard, I remain

Sincerely,


Kelley A. Bosecker

KAB:mrn

cc: Bob Pritt, City Attorney
Denise Perez, HR
Steve Palmquist, Actuary
Rick Burke, Esq.