

FIRE PENSION BOARD  
REGULAR MEETING  
MINUTES  
May 12, 2011

The Fire Pension Board of Trustees held a Regular meeting on Thursday, May 12, 2011 at 4:00 pm, at the City of New Smyrna Beach Commission Chamber 210 Sams Avenue, New Smyrna Beach, Florida.

ROLL CALL

The following members were in attendance:

Tom Lee  
Robert Alonzo  
Don Snell  
David Newell  
Lynne Plaskett

In attendance were Carol Hargy, Human Resources Director, and Claudia Rogers, Recording Secretary, and Charlie Mulfinger of Morgan Stanley Smith Barney.

APPROVAL OF MINUTES

A motion was made by Lynne Plaskett to approve the minutes of the Regular meeting held on February 10, 2011, seconded by Don Snell. The motion passed unanimously.

PRESENTATION OF QUARTERLY RESULTS-MORGANSTANLEY SMITHBARNEY

Charlie Mulfinger presented the Quarterly financial results. Mr. Mulfinger updated the Board on the economy and U.S. market. The fund value on March 31, 2011 was \$14,920,281.93 sustained a net gain of \$514,672.91 Gross of Fees and \$478,897.75 Net of Fees in the quarter. Detailed information is included in the Quarterly Performance Evaluation report document on file with the City.

APPROVAL OF FEES

A motion was made by Robert Alonzo to approve payment to Christiansen & Dehner, for the total amount of \$847.27, seconded by Lynne Plaskett. The motion passed unanimously.

A motion was made by David Newell to approve payment to Foster & Foster for the total amount of \$4,803.00, seconded by Robert Alonzo. The motion passed unanimously.

A motion was made by David Newell to approve payment to Tom Lee for Trustee School Expenses in the amount of \$400.00, seconded by Robert Alonzo. The motion passed unanimously.

## REVISED ACTUARIAL VALUATION REPORT

Tom Lee outlined the changes in the valuation report document for the Board members. After some discussion the revised report was approved by a motion made by Don Snell, seconded by Lynne Plaskett. The motion passed unanimously. The detailed report document is on file with the city. Based on the advice of Morgan Stanley Smith Barney and Foster & Foster the total expected annual rate of investment return for the fund for, the next several years, and the long-term thereafter, shall be 7.9%, however, the investment professional did not feel comfortable with an 7.9% return for the next year net of investment related expenses. A motion was made by Lynne Plaskett to accept the advice of Morgan Stanley Smith Barney and Foster & Foster declaring a rate of return of 7.9%, seconded by Robert Alonso. The motion passed unanimously. The Declaration of Returns letter will be sent to Division of Retirement, Foster & Foster, Inc. Christiansen & Dehner, P.A., Graystone Consulting and a copy will be kept on file with the City.

## AFFIDAVIT OF DISABILITY BENEFIT RECIPIENT

Tom Lee advised the Board regarding Darryl Lee's disability affidavit and his physicians reply. Mr. Dehner agreed with the Tom Lee's observation that Mr. Lee's doctor did not state that Mr. Lee was totally and permanently disabled. Mr. Dehner said it is clear in the affidavit that is one of the issues to be addressed by the physician and he did not do that. Tom Lee advised the Board he had spoken with Mr. Lee's doctor's office with a Rick Miller, Nurse Practitioner. Mr. Miller advised that Dr. Williams stood by what he had replied and would not change his response. Mr. Darryl Lee addressed the Board members. Mr. Lee read explained what had happened in 1991 when his disability retirement began. He stated he did not want to retire as working as a firefighter was a lifelong dream but the Fire Pension Board at the time had him retire with a 65% disability. Tom Lee described to Darryl Lee the fiduciary responsibility of the Board to be sure all retirees are collecting their benefits in accordance with the plan and that at the advice of their attorney letters were mailed to all retirees to see if they were still alive or still disabled. Tom Lee told Darryl Lee he needed to supply the Board with a certificate of disability. Mr. Darryl Lee advised he did not like confrontation but if he needed to obtain an attorney then he would do so. He further explained no doctor had ever given him a certificate of disability that the Fire Pension Board at the time had decided he was disabled and put him out on a disability retirement. Mr. Dehner advised Mr. Darryl Lee and the Board members that the members had to determine if he had recovered or if a limited duty position was available now which was not available at the time of disability and continued to state what the process was. Mr. Darryl Lee asked if the City was offering him a job. Mr. Dehner stated the Board was not at that stage in the process. Ms. Plaskett advised the Board she had gone through a similar situation with a family member and that when doctors are asked to provide documentation to a higher authority they are reluctant or just will not do it. Mr. Dehner advised he has never run into this before. David Newell asked if the job description was provided to the doctor so he could see if Darryl Lee could perform the job duties. Mr. Dehner advised if it is the same treating doctor they would have that information on file. Mr. Darryl Lee told the board all that information and documentation was provided to the Board in 1991 at the time of his disability retirement. Robert Alonzo asked if there were other disability retirees in a similar situation. Claudia Rogers stated she had received doctor certifications on other disability retirees. Mr. Kirk Jones spoke as a prior board member on behalf of Mr. Darryl

Lee. Mr. Jones asked if the City has not job for Mr. Lee would he continue to receive disability benefits. Mr. Dehner answered yes he would. Mr. Jones asked on behalf of Mr. Darryl Lee if his disability benefits could be reinstated and back paid until the board received a certificate from the physician. Mr. Darryl Lee advised it took two months to get a doctor's appointment. After discussion it was decided to have Claudia Rogers, Recording Secretary, draft a letter to Dr. David Williams M.D. from Tom Lee Fire Pension Board Chairman asking Dr. Williams to supply the Board with a doctor certification within 60 days of receipt of letter regarding Darryl Lee's disability status. Tom Lee asked what the board's pleasure was in regard to Mr. Darryl Lee's disability checks. A motion was made by Don Snell to reinstate Mr. Darryl Lee's retirement benefits to include a back payment of benefits owed to Mr. Lee during the disability review, seconded by Lynne Plaskett. Mr. Snell told Mr. Darryl Lee there is some urgency in the matter; it is not the Board's feelings about this it is what they are required to do so legally. Tom Lee advised Mr. Darryl Lee to please respond in a timely manner when receiving any correspondence from the Board. Roll Call: All responded yes. The motion passed unanimously.

#### BOARD MEMBERS REPORT AND COMMUNICATIONS

A motion was made by Tom Lee accepting the Division of Retirements letter stating the Fire Pension plan has been determined to be state-accepted pursuant to Part VII of Chapter 112 F.S., seconded by David Newell. The motion passed unanimously.

#### CITY REPORTS AND COMMUNICATIONS

None.

#### ATTORNEY REPORTS AND COMMUNICATIONS

Mr. Dehner addressed the item on the agenda and advised the investigation was on going, he emphasis the importance of the security of the situation. Mr. Dehner discussed with the Board the Legislative update and amendments being made to pension plans regarding House Bill #7241 and Senate Bill #1128. Senate Bill #1128 has been redrafted several times. The Senate Bill #1128 narrows the compensation definition which can be used for retirement calculations. Currently this plan has total compensation this bill will change to fixed compensation and up to only 300 hours of overtime. (The second CD of the meeting was blank). Mr. Dehner continued his discussion of the Senate and House Bills with an update to come at the next regularly scheduled board meeting.

#### ADJOURNMENT

There being no further business, the meeting was adjourned at 5:40 pm.