

**BOARD OF TRUSTEES  
WEST CHICAGO POLICE PENSION FUND**

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P.O. BOX 165, WEST CHICAGO, ILLINOIS 60186 – 0165

**Board of Trustees, Quarterly Meeting  
Thursday, August 6, 2015 at 8:30 A.M.  
West Chicago City Hall**

1. Call to Order:

Board President Joe Trefilek called the meeting to order at 8:31 a.m.

2. Establish Quorum:

In response to a question from President Trefilek, Michael Guttman indicated that he accepted the Mayor's appointment on April 27, 2015 as a Trustee to the Pension Board. He was informed that he needs to complete 32 hours of Trustee Training within 18 months of the appointment as well as 16 hours a year of continuing education. A quorum was established with Joe Trefilek, John Zurick, John Murphy, and Michael Guttman present. Not present was Tony Cargola. Also present were Board Clerk Jodi Rucks, Dave Russo, Bruce Malkin, Toby Zwingelberg, Kevin Crain, Michael O'Reilly, Bill Stogsdill, John Georgievski, Sergeant Chris. Shackelford, City Attorney Patrick Bond, Assistant Director of Administrative Services Nikki Giles, and Police Chief Mike Uplegger

3. Approval of the April 16, 2015 Board Minutes:

Trustee Zurick moved to accept the minutes of the April 16, 2015 Board Meeting; the motion was seconded by Trustee Murphy. The motion was approved 3-0, with Trustee Guttman abstaining because he was not a Board Member at that meeting.

4. Officer Status: New/Regular/Retired/Disabled Members:

Trustee Zurick moved to sign the paperwork accepting new hire Christopher Anthony Richards into the Police Pension Fund. The motion was seconded by President Trefilek. The motion was approved 4-0.

5. Investments:

Dave Russo started that the Fund investments increased 0.42% during the second quarter and increased 2.27% year to date. The Fund's portfolio is comprised of 34% annuities, 32% equity mutual funds, 25% fixed income funds and 7% U.S. Government securities. The Fund's portfolio is currently comprised of 57% invested in mutual funds, and remains under the Statutory maximum. Mr. Russo indicated that the Fund's fixed income and equity investments are performing better than the benchmarks for both the quarter and year to date. Mr. Russo concluded by indicating that there is currently a total of \$2.8 million in the Pension Fund's Reserve Account. He stated that Fund expenditures approximate \$147,087 monthly for disabled/retired pension members, which totals about \$1.7 million dollars annually. According to the Fund's most recent Report, the Actuarial Required Contribution by the City should be \$2.4 million, which will give the Fund around \$800,000 to invest and put into the Reserve Account. However, the Fund is currently getting \$1.8 million from the City, giving it less than \$200,000 to invest and place into the Reserve Account. Mr. Russo

recommended that the Board explore investing in mid-cap and balance funds by allocating some of the equity into equity balance funds. Trustee Trefilek moved to accept Dave's Report and his recommended investment strategy. The motion was seconded by Trustee Zurick. The motion passed 3-1, with Trustee Guttman voting no due to not receiving the financial statements early enough to review.

A discussion followed about having the Board's advisors providing financial statements and recommendations prior to the meeting to allow Board members more time to review and ask better questions at the Board meetings. Trustee Zurick moved to require the advisors to provide all financial paperwork 48 hours prior to the Board Meetings; the motion was seconded by Trustee Murphy. The motion was approved 4-0.

#### 6. Custodian Report:

Michael O'Reilly agreed with Mr Russo that the Fund Board should scale back, indicating that the GDP growth is not normally what is seen on a YTD basis. Right now the U.S. economy is the strongest economy globally and everyone is looking to it for direction. After the first two quarters of 2015, market expectations have not been fulfilled, as our growth is far less. The U.S. equity market represents 50% of the global market. At some point interest rates are going to start increasing slowly. By meeting quarterly, the Board should be able to react and make good decisions based upon the changing interest rates. Trustee Zurick moved to accept the Custodian Report; the motion was seconded by Trustee Murphy. The motion passed 3-1, with Trustee Guttman opposing the motion because he did not have sufficient time to review the financial documents.

#### 7. Clerk's Report:

- a. Bills Paid 2<sup>nd</sup> Quarter of 2015 - Trustee Guttman indicated that the Board should be getting a summary of all bills paid prior to voting to approve them. The Board directed the Clerk to prepare such for future meetings.
- b. Interaction with City Financial Officers - In response to questions regarding the status of the signature cards, Trustee Guttman replied that such inquiries should be directed to the Mayor as he was not at the meeting in the capacity of City Administrator but rather as a Pension Board Member. Board Attorney Bill Stogsdill commented that on July 29th, 2015, he met with the City's Attorney and the Mayor to find a way to secure cooperation which included the CFO appearing at meetings and the return of the signature cards so that we would be in compliance with the Illinois Department of Insurance's demand for dual signatures. Mr. Stogsdill stated that the City's Attorney and the Mayor both agreed that the signature cards would be provided to the Board, yet they have not been given.

Trustee Guttman indicated that it was his understanding that the documents requested multiple times by the Board Treasurer have not yet been provided. Board Attorney Stogsdill replied that it didn't matter because the Board Treasurer is statutorily required to sign the cards. Trustee Guttman indicated that he would not be comfortable signing documents without having reviewed all of the supporting information as well as the documents referenced in the Investment Policy, which also seemed to be incomplete. He ended by saying that Mayor Pineda and City Attorney Bond told him that the requested information needed to be provided to and reviewed by the Board Treasurer as the next step in this process.

Trustee Zurick moved to accept the Clerk's Report; the motion was seconded by Trustee Murphy. The motion was approved 3-0, with Trustee Guttman abstaining.

8. Board Attorney Report:

- a. Memorandums of Law: Mr. Stogsdill reviewed his Addendum to the Memorandum of Law regarding the appointment of Michael Guttman as a Trustee, in which he gives his legal opinion on there being a conflict of interest between Mr. Guttman serving as both the City Administrator and a Board Trustee. Mr. Stogsdill reviewed the duties of the City Administrator, who is appointed by the Mayor with the advice and consent of the City Council. He concluded that this conflict will be most evident when the City and Board do not agree on certain matters.
- b. Incompatibility of Office: Mr. Stogsdill elaborated more on why Mr. Guttman cannot serve in both roles. He stated that the City Administrator drafts the annual Proposed Budget for the City. As a Trustee of the Pension Board, Mr. Guttman would participate in a discussion and recommendation regarding the amount of money to be requested for the tax levy based upon the Actuarial Report prepared for the Board. He reminded the Board that last year the Board asked for an amount that was \$153,538.00 more than the amount approved by the City Council. Mr. Stogsdill indicated his belief that there is an incompatibility of offices because the City Administrator could recommend to the City Council an amount less than the amount dictated in the Actuarial Report and requested by the Board.
- c. Fiduciary Duties: The Board Attorney shared his opinion that as a Board Trustee, if Mr. Guttman believed that the Pension Fund was not being properly funded by the City, he would have the fiduciary duty to investigate and rectify that error. The results of the investigation could lead to him taking direct legal action against his employer. The potential adverse positions of the Pension Board and City of West Chicago would force Mr. Guttman to regularly be choosing between the best interests of the Pension's beneficiaries and the fiduciary duties he owes to the City.
- d. Illinois Department of Insurance Advisory Opinion Legal Opinion. This item was not discussed
- e. Quo Warranto Procedure: Mr. Stogsdill opined that a Pension Fund Board or an individual citizen can request that the State's Attorney's Office bring a Quo Warranto action to remove Mr. Guttman as a City Official now that he is a Pension Board Member. This legal process is used to test a person's legal right to hold an office, not to evaluate the person's performance in office.
- f. City of West Chicago Ordinance Regarding the City Administrator's Duties as an Appointed Officer – This item was previously discussed.

President Trefilek moved to accept the Board Attorney's Report while delaying the discussion of any legal action for another meeting; the motion was seconded by Trustee Zurick. The motion was approved 3-0, with Trustee Guttman abstaining.

9. Old Business:

- a. Subjects Discussed in Past Meeting: There was a brief discussion on the steps the Board Attorney took since being directed by the Board in April to improve

communication with the City. Mr. Stogsdill conveyed that he met with the Mayor and the City's Attorney and was told the signature cards would be presented and that someone from the City would come to the meetings to discuss financial matters, including the Actuarial Report and the underfunding of the Pension Fund. Prior to this point, neither Mr. Guttman nor any other person from the City had made an appearance at the meetings to know what was fully being discussed.

A discussion ensued about the Board not having a properly posted meeting in over two years and until the recently rescheduled July 2015 meeting as well as other requirements of the Open Meetings Act. Board Attorney Stogsdill indicated that the Board was making all these changes to appease Mr. Guttman and that all was running very smoothly and without objection until his appointment. Trustee Guttman indicated that he did not fault the Board members for not knowing the requirements of the Open Meetings Act, and that the Board is not changing its practices for him, but rather because it is to be compliant with State law. Trustee Guttman suggested that the Board direct its attorney to research the implications of the Board failures to comply with the Open Meetings Act; no further discussion of or direction on this topic ensued.

- b. Underfunding: This item was discussed later in the meeting.
- c. Actuarial Reports 2014: This item was discussed later in the meeting.
- d. City's Purported Actuarial Report of October 2014: Clerk Rucks indicated that Board Treasurer indicated that the Report dated October 2014 is the only version of the Report. President Trefilek questioned Trustee Guttman about when the City's Actuarial Report was completed. Trustee Guttman responded that the Report was completed in June 2015. In response to a question from President Trefilek, Trustee Guttman explained that, similar to an audit, the date on the Actuarial Report is when the data collection was completed, not when the Report is finalized and given to the client.

#### 10. New Business:

- a. Actuarial Report 2015: President Trefilek moved to accept the 2015 Actuarial Report prepared by Art Tepfer; the motion was seconded by Trustee Murphy. Trustee Guttman made a substitute motion to table the acceptance of the Actuarial Report until next meeting so that the actuary can present his findings and recommendations and the Board can ask questions. The motion died for lack of a second. The motion was approved 3-1, with Trustee Guttman voting no.
- b. Incompatibility of Office of Appointment of City Administrator: The Board decided to discuss this item at the next meeting.
- c. Fiduciary Duties of Board Trustees: The Board decided to discuss this item at the next meeting.
- d. Management Letter and Audit Report of December 31, 2014: Trustee Guttman requested that this item be discussed at the next meeting so that Board Members can ask questions of the auditors, who were not in attendance. The Board decided to discuss this item at the next meeting.

- e. Tax Levy Request: Trustee Murphy moved to request that the City levy \$2.49 million for police pension purposes. President Trefilek seconded the motion. Mr. Guttman explained to the Board that the City is not required to allocate the amount requested by the Pension Board in its annual Budget and cited the *City of Evanston* cases; he said that municipalities are legally compliant so long as they annually provide the Pension Funds with the minimum amount dictated by the Department of Insurance and, by 2040, they meet the goal of the Pension Funds being 90% funded. He further stated that City Councils' determine how much to fund pensions based upon the revenues received and expected as well as the level of services expected by its customers, among other reasons. The motion was approved 3-0, with Trustee Guttman abstaining.

11. Executive Session: There was no need for an Executive Session.

12. Public Comment

City Attorney Patrick Bond explained that the Pension Board is not legally able to file a lawsuit challenging the appointment of the City Administrator to the Board. The Illinois Pension Code does not confer upon Pension Boards a general power to sue. Moreover, even if a power to sue was inferable from the powers granted the Board under the Illinois Pension Code, the Board lacks standing to bring a Quo Warranto action. Generally, only the Attorney General or the State's Attorney, as representatives of the people, has standing to institute a Quo Warranto action. Also, given that the City Administrator has only a single vote on the Board, and could easily be nullified by a majority of the Board, his appointment to the Board is insufficient to support a claim that the appointment would compromise the functioning of the Board. City Attorney Bond concluded by correcting Mr. Stogsdill's understanding of the duties and responsibilities of the City Administrator.

Stogsdill responded by saying that the Mayor can appoint whomever he wants; however, he believes that an incompatibility of offices exists by Mr. Guttman having accepted this appointment and continuing to work and get paid by the City. He concluded by saying that a Quo Warranto action would address this issue and determine if Mr. Guttman has to resign as City Administrator.

13. Schedule Next Meeting/Adjourn: President Trefilek moved to continue this meeting to 8:30 a.m. on August 20, 2015; the motion was seconded by Trustee Zurick. The motion was approved 4-0.

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WEST CHICAGO POLICE PENSION FUND**

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P.O. BOX 165, WEST CHICAGO, ILLINOIS 60186 – 0165

**Board of Trustees, Continuation of Quarterly Meeting  
Thursday, August 20, 2015 at 8:30 A.M.  
West Chicago City Hall**

1. Call to order

Board President Joe Trefilek called the meeting to order at 8:31 a.m.

2. Establish quorum:

Quorum was established with Joe Trefilek, John Zurick, Tony Cargola, Jack Murphy, and Michael Guttman all present. Also present were Board Clerk Jodi Rucks, Board Attorney Bill Stogsdill, Kevin Crain, Toby Zwingelberg, Art Tepfer, Director of Administrative Services/Board Treasurer Linda Martin, Ron Amen, Officer Jake Fuller, Officer Robbie Peterson, Sergeant Chris Shackelford, Police Chief Michael Uplegger, Assistant Director of Administrative Services Nikki Giles, Commander Stephen Laub and City Attorney Patrick Bond.

9. Old Business:

a. Subjects Discussed At Past Meeting:

The Board discussed the status of the signature cards and Treasurer Martin being a required co-signer on the Police Pension Fund checks. Treasurer Martin indicated that she has repeatedly requested documents regarding the Pension Fund so that she can do her due diligence before signing her name. To date, Treasurer Martin said she has not received them and has also never seen a financial statement of the Fund. She stated that she is awaiting a complete copy of the Investment Policy as the one she has and that was included as part of the Department of Insurance Audit is missing information. Finally, she indicated that she is also waiting for documents referenced in the Investment Policy which includes a copy of the operating rules and procedures for the City of West Chicago Police Officers Pension Plan, per item IX Internal Controls along with the most recent monthly bank statement at the referenced account at BMO Harris.

President Trefilek asked Trustee Guttman if he had the signature cards since Treasurer Martin via email said that she had gave the signed signature cards to him prior to this meeting. Trustee Guttman replied that he was not at this meeting as the City Administrator, but rather as a Board Member, and that all such questions should be directed to Mayor Pineda. President Trefilek said that as a Board Member he should have given the cards to either Clerk Rucks or another Board member, as any other Trustee would have done. President Trefilek moved to authorize the Board Attorney to contact the Illinois Department of Insurance to inform them that the City is not following the requirement of having someone from the City co-sign checks from the police pension and request they take any action needed to get the City of West Chicago to comply including an audit of the City because of irregularities; the motion was seconded by Trustee Zurick. Trustee Guttman indicated that such a motion was

improper and in violation of the Open Meetings Act. He further stated that should this vote be taken, he would have to advise the Mayor about such violation. The motion was approved 3-2, with Trustees Guttman and Murphy voting no.

Treasurer Martin raised questions concerning whether or not load fees were being charged or waived for several mutual funds. Trustee Guttman conveyed his concerns regarding the Fund's investment return percentages, indicating that he surveyed 17 other Police Pension Funds to determine their average annual rate of return, and learned that West Chicago's Police Pension Fund was last. The Board decided to place these items on a future Board Meeting agenda for discussion. Trustee Murphy suggested that the Board should consider meeting more frequently; no further discussion of or direction on this topic ensued.

Trustee Guttman and Treasurer Martin explained the State law that indicates that the Police Pension Fund Board is required to issue an RFQ for financial advisors every five years and that the Board is required to annually elect the President, Vice President, Secretary and Assistant Secretary at its July meeting. Several Trustees indicated that they were not familiar with these requirements, and Trustee Guttman indicated that the Board's consultants are responsible for advising them of these laws.

President Trefilek stated that ever since Trustee Guttman's appointment, the Board is having to change the way it conducts businesses and it is making it more difficult. Trustee Murphy conveyed that the Board has been very loose with how it has operated in the past and that the changes being suggested by Trustee Guttman are appropriate.

b. Underfunding; Actuarial Reports 2014 and City's Purported Actuarial Report of October 2014:

Treasurer Martin explained that the City's report that was sent to the Pension Board was the final Actuarial Report not an amended one. The Board discussed how the City Council annually arrives at an amount to allocate for police pension. In response to a question, Trustee Guttman indicated that each year the City Council is advised of the amount being requested by the Police Pension Fund Board. Trustee Guttman shared that he used the draft figures in the actuarial analysis performed by Lauterbach & Amen when making a recommendation to the City Council for an amount to include in the 2015 Budget for police pension purposes. In response to a question, Mr. Amen indicated that City staff engaged his firm to evaluate various actuarial assumptions associated with the Police Pension Fund.

10. New Business:

a. Actuarial Report 2015:

Mr. Tepfer reviewed his Report that was accepted by the Board at its August 6, 2015 meeting, and shared his recommended amount for a proposed tax levy from the City for police pension purposes. He informed the Board that he has revised the recommended contribution to provide a 100% funding target rather than the former 90% which has increased the recommended contribution from the City by \$326,000. The results of his valuation indicate that the recommended minimum contribution from the City for the next tax year is \$2.49 million or 56% of current payroll. In response to a question about when the Board discussed or directed the Actuary to use certain assumptions in his analysis, Mr. Tepfer said that was not the Board's role but rather his job. Trustee

Guttman indicated that he disagreed with such and that it should be a policy decision of the Board.

b. Incompatibility of Office of Appointment of City Administrator:

The Board continued this discussion from the August 6<sup>th</sup> meeting. President Trefilek presented an engagement letter from Schirott, Luetkehans & Garner, LLC to prepare a legal opinion on the incompatibility of offices resulting from the appointment of the City Administrator as a Board Trustee. Trustee Murphy indicated that it would not be a good use of money to go this route. The Board decided to deal with such at a future meeting.

c. Fiduciary Duties of Board of Trustees: This item was not discussed.

d. Management Letter and Report of December 31, 2014

Ron Amen reviewed the Draft Management Letter for the Police Pension Fund. He noted that the City's net pension liability is \$19.9 million and that represents 51% of the plan fiduciary net position as a percentage of the total pension liability. It is not something that should be alarming but he highlights it to ensure it does not go unnoticed. Mr. Amen informed the Board that the Pension Fund's broker statement at First National Bank of LaGrange is reporting investments totaling \$731,258 that had been cashed out in the prior fiscal year. In response to a question from Trustee Guttman, Mr. Zwingelberg indicated that this error has been corrected.

He then went over the Annual Financial Report starting with the Independent Auditors' Report, the Financial Statements, including the statement of Fiduciary Net Position, Statement of Changes in Fiduciary Net Position, and the Notes to the Financial Statements. He finished by reviewing the Required Supplementary Information, which included the annual weighed rate of investment return that was 1.65%. Trustee Murphy moved to accept the Audit; the motion was seconded by Trustee Guttman. The motion was approved 5-0.

e. Tax Levy Request: Discussed in previous minutes: This item was not discussed.

f. Conflict of Interest having the City and the Pension Fund use the same accounting firm:

President Trefilek raised a concern regarding a potential conflict of interest with Lauterbach & Amen being hired by the City to prepare an evaluation of the Police Pension Fund using various assumptions and also being the Fund's accounting service. The Board decided that the matter would be further discussed at a future meeting.

11. Executive Session: There was no need for an Executive Session

12. Public Comment:

Chief Mike Uplegger asked a question about the implications of the Board having failed to follow the provisions of the Open Meetings Act over an extended period of time. Trustee



Guttman again suggested that the Board Attorney be directed to research this issue. No further discussion of or direction on this topic ensued.

13. Schedule next meeting: The next quarterly meeting was scheduled for 8:30 a.m. on October 15, 2015.
14. Adjourn: At 10:17 a.m., Trustee Murphy moved to adjourn; the motion was seconded by Trustee Cargola. The motion was approved 5-0.