

**Board of Trustees
of the
ELMHURST FIREFIGHTERS PENSION FUND**

REGULAR MEETING MINUTES

May 9, 2001

I. Meeting Called to Order

The meeting was called to order by President Robert Gallas at 9:20 a.m. at City Hall, 209 N. York Road, Elmhurst, Illinois.

II. Roll Call

The following members of the Pension Board were present: President Robert Gallas, Trustee Michael Kopp, Trustee Michael Caccitolo, Trustee William Windrich, City Clerk Jan Edgley and City Treasurer David Dyer. Secretary Scott Wallace and Mayor Thomas Marcucci were not present.

Also present at the meeting representing the Investment Manager were John Falduto, Tom Sawyer and Terese Krafcheck. Attorney Robert Trevarthan, Attorney Harlan Spiroff and Co-Council John Adams were present., along with Director of Human Resources Beth Taska. Attorney Robert Gildo attended the meeting with Mr. and Mrs. Michael Foytik.

Due to the absence of secretary Scott Wallace, it was decided that it was necessary to elect a secretary pro-tem for this meeting. Mr. Kopp made a motion to elect Michael Caccitolo, which was seconded by Mr. Gallas. The motion was approved by the board.

III. Approval of Minutes

David Dyer made a motion to approve the minutes of the meeting held on February 14, 2001. The motion was seconded by Michael Caccitolo. The minutes were approved by the board.

IV. Report of Officers and Committees

David Dyer made a motion to approve the treasurer's report. Michael Kopp seconded the motion. The report was approved by the board.

Robert Gallas presented a bill from Ottosen, Trevarthan, Britz, Kelly and Cooper, in the amount of \$2752.29. David Dyer made a motion to approve payment, which was seconded by William Windrich. Michael Caccitolo questions one of the items in the invoice. Mr. Trevarthan stated he recognized the error and that the board should adjust the bill and correct the error. The bill was reduced in the amount of \$42.00, leaving a balance of \$2710.29. A motion to approve payment was made by David Dyer and seconded by William Windrich. The motion was approved by the board.

V. Report of Investment Manager

Tom Sawyer reviewed the Investment Report dated through the period of March 31, 2001.

VI. Old Business

The old business is in regards to pension application being made by Michael Foytik.

Mr. Trevarthan presented a letter (attached) from Robert Gallas stating that he has voluntarily recused himself from any participation in any procedures that will take place in regards to Michael Foytik. He will be in attendance at that point to verify a quorum and proper procedures.

VII. Discussion regarding the Michael Foytik application.

Mr. Robert Trevarthan:

Began with comments regarding Mr. Gildo wanting to present a motion and/or requests that he would like to make. Mr. Gildo was asked to have a written copy of his requests, but he had been unable to prepare anything in time for this meeting.

Mr. Gildo wishes to attend, without participation, the medical evaluations of Mr. Foytik. Mr. Trevarthan finds no statutory authority that would allow the need for this to occur.

Mr. Trevarthan suggests that completion date be established for medical evaluations of 45 days from today with a hearing to follow 30 days following that. He also states that he does not feel that any new perimeters be set for time allowance, but that everything proceed as previously decided.

He suggested June 25th as completion date and July 25th as hearing date. Mr. Dyer was considering a holiday in that period, and perhaps August 15th would be a better hearing date.

Mr. Robert Gildo:

Requested (rather than a formal motion) an order of protection for Mr. Foytik.

Continues to express concern that he and his client feel that the doctors were chosen/nominated by the city and that they are an adversary.

** (Mr. Gallas stated at this point that 5 doctors were recommended from independent entities and then the board chose 3 from the 5.)

Mr. Gildo continued that on the 1st three doctor visits with Dr. Harris, that no evaluations were made, but that main direction of the visit pertained to the 93-94 criminal records. He also stated that on the 4th visit, accompanied by Mrs. Foytik, that the same type questions were asked and that no medical evaluation was done and no recommendations were made.

Mr. Gildo also expressed concerns regarding:

1. City is creating unreasonable delays
2. Rules need to be established
3. Wishing to attend physician visits with Mr. Foytik
4. Wishing to establish limitations on number of and length of visits.

Mr. Trevarthan comments:

Feels there are no statutory laws regarding these requests as this is only a pension board review of the request, it is not a criminal proceeding regarding only the medical disability.

Stated he will present written report stating that any evidence presented would be viewed only by the board and its members. A closed session could also be requested if necessary.

Mr. Harlan Spiroff:

Any delays have been caused by Mr. Foytik's representatives, not the City of Elmhurst.

Application was filed in September of 1999, doctors were chosen in November of 1999. Hearings and evaluations were set for 1 year ago, when Mr. Foytik withdrew.

Any semblance that the city, board and/or any of its members or representatives had any influence with the choice of physicians is totally false. The board has very limited authority in such matters.

One year ago there was ample time to take care of all of these matters, Mr. Foytik's actions have been dilatory.

Mr. John Adams – Co-Council:

Feels that Mr. Gildo's attendance at evaluations would affect any objectivity by the doctors to fairly evaluate Mr. Foytik.

***(Mr. Gildo at this point stated that claiming Mr. Foytik's 5th Amendment rights would include having a lawyer present.)

Mr. Adams also found placing limits on number and length of visits should not be recommended.

Harlan Spiroff:

In response to Mr. Gildos concern regarding doctors questions on criminal activities, upon pulling out Mr. Foytik's original request, stated that the only paperwork forwarded to the doctors was the request made by Mr. Foytik which included attachments from Mr. Foytik, not any additional paperwork that the City of Elmhurst added to the request.

Robert Trevarthan:

At the hearing, medical evaluations will be presented and there will be opportunities to depose if requested. There will also be decisions made as to whether doctors will need to be present, or phone consultations will be ample.

DECISIONS TO BE MADE:

1. Mr. Guildo to accompany Mr. Foytik on medical visits.
2. Limit of number of and length of sessions

Mr. Trevarthan would fashion an order stating the decisions of the board, especially in regards to any release of any medical records and being only used by the board. He does not recommend limits on physician visits, and furthermore states that any limits could effect the outcome later on where someone could claim that they had not been given enough time to handle the matter properly.

Harlan Spiroff:

Wants it on record that there was no written/formal motion/request made by Mr. Gildo. Also, Mr. Adams cannot attend August 15 hearing and requested August 22nd. This date was acceptable.

VIII. Motions Made

MOTION #1: Made by David Dyer, seconded by Jan Edgley.

Allowing Mr. Guildo to accompany Mr. Foytik on medical visits/evaluations.

David Dyer	No
Jan Edgley	No
William Windrich	No
Michael Caccitolo	No
Michael Kopp	No

Motion denied.

MOTION #2: Made by David Dyer, seconded by Jan Edgley.

Limit the number of and the length of medical visits.

** Request by Mr. Guildo
1 Additional with Dr. Harris
1 Additional with Dr. Gruenwald
2 only with 3rd physician

David Dyer	No
Jan Edgley	No
William Windrich	No
Michael Caccitolo	No
Michael Kopp	No

Motion denied.

MOTION #3: Made by Jan Edgley, seconded by David Dyer.

Set June 25, 2001 as the completion date for medical evaluations (allowing for any conflicts with the physicians in scheduling appointments.)

David Dyer	Yes
Jan Edgley	Yes
William Windrich	Yes
Michael Caccitolo	Yes
Michael Kopp	Yes

Motion carried.

MOTION #4: Made by David Dyer, seconded by Jan Edgley

Set August 22, 2001, 8:30 a.m., City Hall, 209 N. York, Elmhurst, Illinois as the date of the opening of the hearing.

David Dyer	Yes
Jan Edgley	Yes
William Windrich	Yes
Michael Caccitolo	Yes
Michael Kopp	Yes

NOTE: Jan Edgley suggested the board make sure there is a full board membership in attendance.

Motion carried.

Mr. Gildo questioned how he could present any changes he might want to the draft that Mr. Trevarthan prepares. Mr. Trevarthan stated that they could work on it via phone and fax to make any adjustments.

MOTION #5: Made by David Dyer, seconded by William Windrich.

All and/or any medical information/evaluations presented to the board would be strictly confidential and used only by the board, its members, the attorneys and would not be broadcast to anyone outside of the board hearings.

David Dyer	Yes
Jan Edgley	Yes
William Windrich	Yes
Michael Caccitolo	Yes
Michael Kopp	Yes

Motion carried.

This concluded the old business portion of the meeting.

IX. New Business

An election was held to re-elect Michael Caccitolo to continue as a trustee of the pension board.

Per Scott Wallace:

results were turned in on May 7, 2001 with the voting as follows:

37 votes to re-elect Michael Caccitolo to another 3 year term as trustee
1 write in vote for Jim Gordon and 1 write in vote for Robert Vajdik

Motion to approve election made by William Windrich, seconded by Robert Gallas.
The motion was approved.

X. Adjournment

Motion to adjourn was made by Jan Edgley at 10:50 a.m., seconded by David Dyer.
The motion was carried. The next pension board meeting is August 8, 2001.

Respectfully submitted,

Scott Wallace