MINUTES
PENSION TRUST COMMISSION
2ND FLOOR CONFERENCE ROOM
NEW CITY HALL
MAY 31, 2012 – 9:00 A.M.

Jerry Ihler, Chair, called the meeting to order at 9:00 a.m. in the New City Hall 2nd Floor Conference Room. Notice of meeting and agenda was posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT: Bayones, Teri; Ellwanger, Paul; Ihler, Jerry; Hill, Andy; Kindt, Bill; Livingston, Steve; Mercado, Joe.

ABSENT: None.

ALSO PRESENT: Tanya Riley, Human Resources; Denise Ezell, City Clerk's Office; Tim Wilson, City Attorneys Office.

III. New Business

A. Consider recommending the city council adopt an ordinance amending Section 17-3-4-335, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the restrictions on benefits to conform to IRS requirements.

Wilson stated I want to point out a typo in the title of the agenda. It says Section 335 and should be Section 343. I have John Papahronis from McAfee & Taft on speaker phone. He is going to tell the Authority of the changes and answer any questions.

Papahronis stated let me apologize for putting you through this again. We previously adopted an amendment that incorporated some required statutory changes. When I drafted the amendment I went through and pulled out the provisions that did not apply to governmental plans. A provision I took out I'm proposing to put back in. At the time of my analysis I and several actuaries concluded this section was not applicable to governmental plans. What led me to change my opinion was I read something that pointed out where the IRS said they thought it was applicable. That is why I would like to go back and put that provision in the amendment. In other words add it to the amendment we previously did. This provision is in the section of the plan regarding limitation. Section 415 talks about what the limitations can openly be under the plan. Currently it is like $200,000. The way the actuary has to calculate that is they figure the normal form of benefits and then reduce it down to a present value and an actuarial equivalent of that annuity. The language we are adding goes to that calculation. I'm sorry to have to do this, but I want to make sure we are completely covered.

Wilson stated I believe our deadline is June 30th.

Papahronis stated that is correct.

Wilson stated this will go to Council on June 12th assuming the Authority approves it.

Ihler asked does anyone have any questions of Papahronis? Thanks John.

MOVED by Kindt, **SECOND** by Livingston, to recommend the City Council adopt an ordinance amending Section 17-3-4-343, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the restrictions on benefits to conform to IRS requirements. **AYE**: Ellwanger; Ihler; Hill; Kindt; Livingston; Mercado; Bayones. **NAY**: None. **MOTION CARRIED**.

Wilson stated the motion has passed so we will take this to Council on June 12th.

Papahronis stated very good. Again I'm very sorry about this. I tried hard to get this exactly right, but sometimes they are not crystal clear.

B. Consider a Cost Of Living Adjustment for retirees and take appropriate action if necessary.

Ihler stated Section 17-3-4-339 of the Lawton City Code says "in January of 1999 and every two (2) years thereafter the retirement system must be examined for the possibility of increases for retirees. Any increase shall be based on a percentage which is 1/2 % of percentage change of the cost of living index identified as the Consumer Price Index (CPI) for all urban consumers of Dallas. No increase shall go into effect until it has been approved by a majority of the retirement commissioners meeting of the regular or special session". We have not done this for several years. I have received several calls concerning this matter. I have looked at the CPI for the last two (2) years in Dallas. In 2010 it was a negative .4% and in 2011 it was a positive 4%. Those two (2) years add up to a total of 3.6% and if you follow Code you would divide that by two (2). The most you could recommend approval of is 1.8% increase for retirees.

Hill stated we just got out of the woods and are looking better years down the road. How do we find out what the impact will be if we give an increase?

Livingston stated the actuarial.

Hill stated that is what I figured. How quick do we have to act?

Ihler stated we received an actuarial that said this year was about the same as previous years and is at 63%. From my prospective it concerns me we are still at 63%. We made a change that will make it more solvent as the years go by. Twenty (20) years down the road we will see a break in the curve. From my prospective when we do the next actuarial is how a cost of living increase would affect the plan. See what 2 or 3% would do for the retirees and how it would affect the overall situation. I don't feel comfortable recommending an increase at this time.

Livingston stated especially not after asking the employees to make the changes we made. On the other hand, if we are really interested in keeping up with the cost of living, if we delay it you will have a big jump that will really impact the system. At this time I don't think I could recommend an increase.

Mercado stated I feel the same way. We are in no condition to do so now.

Ellwanger stated I like the idea of having the actuary include an increase so we have options.

Mercado stated on the last cost of living those that retired at a certain time got a different amount than all the others. Maybe those that retired after they changed the multiplier should get less. That was a big jump.

Ihler asked when they changed from 2 to 2.3%?

Mercado stated yes.

Ihler stated from my prospective if we are going to give a cost of living adjustment it should be the same for all retirees.

Livingston stated keep it simple.

Ihler stated I'm hearing we are not in favor of providing a cost of living adjustment at this time and when we have the next actuary we would like to see a couple different percentages and how it would affect the overall plan.

MOVED by Hill, **SECOND** by Mercado, to defer a cost of living adjustment for retirees until the next actuarial report at which time we will request some options. **AYE**: Ihler; Hill; Kindt; Livingston; Mercado; Bayones; Ellwanger. **NAY**: None. **MOTION CARRIED**.

IV. Consent Agenda

FOR THE BENEFIT OF THE AUDIENCE, ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE PENSION COMMISSION AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA PRIOR TO ROLL CALL AND WILL BE CONSIDERED SEPARATELY.

A. Consider Application for Normal Retirement for Henrica Moore.
B. Consider Application for Normal Retirement for Michael D. Johnson.

Ihler stated I need to pull item A. In the recommended action there is a typo. It states the amount of $1265.27 and should be $1265.28.

MOVED by Kindt, **SECOND** by Livingston, to approve consent agenda item A with stated correction. **AYE**: Hill; Kindt; Livingston; Mercado; Bayones; Ellwanger; Ihler. **NAY**: None. **MOTION CARRIED**.

Kindt stated on Item B I have no Benefit Option Agreement. I assume we have the wife's signature agreeing with the option he has chosen.

Ezell stated here is a copy and yes she signed agreeing to this option.

MOVED by Kindt, **SECOND** by Livingston, to approve consent agenda item B. **AYE**: Kindt; Livingston; Mercado; Bayones; Ellwanger; Ihler; Hill. **NAY**: None. **MOTION CARRIED**.

V. Comments

Ihler stated I have received a request from Councilman Wells as it relates to our plan. His concern deals with whether the board has considered doing away with the current system and converting to a 401K. I express my thoughts on the matter and asked him his concerns. The concerns he expressed appear to be with some of the department heads who have thirty (30) plus years and the amount of retirement they will receive. In his opinion it is very high and is concerned whether the plan can continue to pay that. I have given him a copy of the alternatives that Chuck Dean provided when we made the decision to go to Career Averaging. I told him I felt Career Averaging would take care of our plan. I don't want to speak for the Authority that is why I'm bringing this before you. Is this something you would want to think about in the future? Do you want me to ask Councilman Wells to come before the Authority to speak about his concerns? I think we have done a good job in looking at alternatives to try and take care of the plan.

Wilson stated he is only one (1) Councilman and there are seven (7) other members.

Livingston stated he was one of the high paid Department Directors. Is that something this Board is charged with? A 401K is not a retirement plan. It is a life savings.

Wilson stated you are charged with administrating the plan.

Livingston stated that is my point. If we administer this and it appears we are running out of money we will try to come up with ideas on how to solve the problem. If we were going bankrupt we would try to figure out how to protect the employees.

Wilson stated his issues are a policy concern for the entire Council.

Livingston stated correct. We would be getting into the politics of the employees and Council.

Kindt stated we discussed this when we went to Career Averaging. We discussed all the options.

Ihler stated I gave him a copy of the four (4) different alternatives that Dean gave to us. I expressed we chose what we felt was the best alternative in the interest of the City and it made sense as far as trying to get the plan above the 62%. In a course of twenty (20) to thirty (30) years Career Averaging would take care of itself. I didn't want to speak for the Authority and he asked that I bring it up.

Mercado stated why change the system if it is working.

Livingston stated a 401K is an entirely different deal. All employees can participate in a 401K.

Ihler stated I believe he is looking at the employees and City's contribution should be in the form of a 401K

Livingston stated they can contribute to the ICMA plan. The City is a member, but does not contribute. Wells had an active account.

Ellwanger asked is Councilman Wells concerns more of the cost to the City? You could have two (2) plans, but I don't know this group is the one to bring it up.

Ihler stated I believe he thinks a 401K would make better money for the employees and the City. I don't agree with that.

Bayones stated I don't either. In the last spiral lots of people with 401K's lost more money than this plan did.

Ihler stated I believe he has two (2) issues. He believes a 401K in the long run would be better off in comparison to the current plan financially. He did express with the payout could the plan fund itself. I believe that is a totally different issue. That is why we looked at different alternatives and by going to Career Averaging we are trying to address that concern.

Livingston stated that is just an opinion and that is his opinion. With the ICMA plan you have to make decisions. I have a 401K and in the last three (3) or four (4)years I had it in a higher risk and it took a beating. Every once in a while you have a quarter where it appears you are making lots of money.

Kindt stated apparently there are hidden cost in a 401K that appears to be a rip off.

Livingston stated in a 401K you have the choice of being conservative, different plans, or splitting your money. If you are real active and watch the stock market you can trade up to so many times between different funds. I don't know if the average employee will be able to make those kind of decisions. You have to spend 5,000 to 10,000 hours to become an expert and understand what is going on.

Ellwanger asked wouldn't Council have to advise us to look at something like this?

Livingston stated I guess they could. From our standpoint I think we should hire an expert on these types plans and do what is best for the employees. This is the defined benefit plan. It is the most expensive plan that an employer can have. I would assume a 401K would be better for the employer and cheaper.

Ihler stated as I said he has brought this to my attention on several occasions. Each time he ask if the Authority has considered changing to a 401K. I expressed my opinion, but wanted to make sure I wasn't speaking for the entire Authority.

Livingston stated he could come and discuss this with us. If a Councilman has a concern about what we are doing I don't mind if they come to discuss it with us.

Ihler stated I have no problem inviting him to the next meeting to make a presentation.

Hill stated initially in this conservation somebody said this wasn't something we are mandated to take care of. I wouldn't think this would be something we have any business in. We are doing our job and here is our mandate. It is not to change the plan, but to keep it healthy.

Livingston stated I would be real hesitant to change directions and dissolve this plan.

Hill stated I know this has been a problem particularly for the regular worker. I would hate to shove them into a 401K.

Livingston stated I would hate to take an employee with 20 years and try and figure out how much you are going to place in a 401K. You have do know how much to figure in dollars and cents.

Wilson asked what do you do for the retirees?

Ihler stated exactly. Okay our next meeting is July 26th. Does anybody have anything else.

Wilson stated legal has notice that the Trust document is only good for a period of time. A First Amended Trust was done in 1992 and extended it to November of this year. We are working on the Second Amended Trust to keep the Trust going. I'll bring that document to you in July and then to Council.

VI. Audience Participation

VII. Adjournment

MOVED by Hill, **SECOND** by Ellwanger, to adjourn. **AYE**: Livingston; Mercado; Bayones; Ellwanger; Ihler; Hill; Kindt. **NAY**: None. **MOTION CARRIED**.