MINUTES
PENSION TRUST COMMISSION
2ND FLOOR CONFERENCE ROOM
NEW CITY HALL
JUNE 13, 2013 – 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: Teri Bayones; Paul Ellwanger; Jerry Ihler; Andy Hill; Bill Kindt; Steve Livingston; Joe Mercado.

ABSENT: None

ALSO PRESENT: Tanya Riley, Human Resources; Denise Ezell, City Clerk's Office; Tim Wilson, City Attorney's Office, Kristen Duggins and Julie Magness, Finance Department.

II. Introduction of Visitors

Ihler stated we have no visitors today.

III. Approval of Minutes from April 25, 2013.

Motion by Kindt, **Second** by Ellwanger, to approve the minutes as written. **Aye**: Ellwanger; Ihler; Hill; Kindt; Livingston; Mercado; Bayones. **Nay**: None. **Motion Passed**.

IV. New Business

A. Discuss the Qualified Domestic Relations Order (QDRO) the City received In re the Marriage Kimberly Endicott and Richard Endicott, FD-2011-193 District Court of Comanche County, and take appropriate action as necessary.

Ihler stated when we receive information of the divorce of an employee it is submitted to staff and they review the documents. The attorney provides direction as to how the benefits are to be distributed. In this particular incident it stated two separate ways to calculate benefits. First the spouse would receive a percentage based on the contribution and second would receive a percentage of the benefits as Endicott retires. Wilson is going to go into greater detail. We are asking the board to allow John Papahronis to review this particular decree. The decree doesn't fit with what our policy allows to be distributed to the spouse.

Wilson stated a month ago Kristen Duggins from the Finance Department contacted me with a questions about this Qualified Domestic Relations Order. The problem is on page 10 paragraph 5 in your packet. That paragraph states "the order hereby creates and authorize the alternate payee" that is the former spouse "the right to an exact benefit of one-half (1/2) of all contributions made by the Participant of the proceeds held in Participant's General Employees' Retirement/Pension Plan for the City of Lawton as of March3, 2011." This is the first requirement. Then it states "Said account in the name of the Alternate Payee shall be distributed to Alternate Payee at Alternate Payee's direction in accordance with the terms of this Plan."

Basically it is requiring us to take a portion of the contribution that was made during the marriage and put it into a separate account so the alternate payee can get at their discretion. That is not how our plan works. The alternate payee is not entitled to any funds from the retirement plan until the employee retires or makes an election. The next part is confusing. It states "Alternate Payee is also to receive one-half of Respondent's Pension Plan to be calculated as follows: 1/2 of 197 (months the parties were married) over 'x', 'x' being the number of months the Participant is employed by the City of Lawton and enrolled in its Pension Plan, with said proceeds to be distributed to the Alternate Payee at the same time the Participant begins to receive his benefits." That is more like what we do but there seems to be two benefits being award to the former spouse and it is causing some problems.

Ihler stated also under this scenario the amount coming from the pension would be greater than what would be paid if they weren't divorced. Payout should never be greater than what the payout would be once the employee retires.

Kindt stated a separate account doesn't make sense to me.

Wilson stated I attached Lawton City Code 17-3-4-335 that talks about Qualified Domestic Orders and there are certain requirements that have to be met. One is a specific number of payments or period to which the Order applies. I don't believe that has been met. Endicott check with his attorney about the language and that is language that is used by Goodyear. The former spouse's attorney place this language in the decree and Endicott's attorney didn't catch it. I would like the board to authorize John Papahronis to look at this QDRO and give his opinion as to whether it meets the qualifications of our retirement system. If it does we will deal with it but if it doesn't we will reject the QDRO and the parties will have to come up with a new one.

Kindt stated item 11 states "in case of conflict between the terms of this order and the terms of the Plan, the terms of the Plan shall prevail."

Wilson stated that is correct.

Livingston asked can you do that since a District Judge has signed it.

Wilson stated yes. If the plan rejects it they would have to rehash the issue with the Court. I don't believe they can force us to pay more than the participate is qualified to collect.

Ihler stated in the next item we are going to discuss creating a formula and placing it in the code. The code is not clear because we don't provide a formula.

Wilson stated if it is the board's pleasure I would recommend a motion to have Papahronis look at this to determine if it qualifies.

Motion by Ellwanger, **Second** by Kindt, to authorize John Papahronis to review the Qualified Domestic Relations Order (QDRO) the City received In re the Marriage Kimberly Endicott and Richard Endicott, FD-2011-193 District Court of Comanche County and give an opinion as to whether this document meets the requirements of the City of Lawton pension

system. **Aye**: Ihler; Hill; Kindt; Livingston; Mercado; Bayones; Ellwanger. **Nay**: None. **Motion Passed**.

B. Discuss the retirement plan provisions that address Qualified Domestic Relations Orders (QDROs), to include the manner in which the retirement system processes QDROs, and take appropriate action as necessary.

Wilson stated this item flows from the first item. When we received the QDRO I met with Endicott, Duggins and Ihler. Endicott raised some questions on how we currently process QDROs. We don't have sample language or forms that we provide to give guidance on what we deem acceptable or not acceptable. When we receive a QDRO or when a retiree starts to draw their benefit we take whatever the former spouse is suppose to receive and cut it in half. So if the benefit is $2000 the retiree would receive $1000 and the former spouse would receive $1000 until the money that was ordered has been paid. There is nothing in Code that says this is what we are required to do it is just the way we have always done it. We need to know if this is the correct way or should we be doing something different or better. We want Papahronis to look at our current method of payout and to make changes if necessary. Also we would like to have some sample language or a form that would be beneficial to provide to divorce attorneys. Endicott also asked should this be based on contribution or retirement benefits. I'm asking the board to approve allowing John Papahronis to do a general overview of our current method to see if he recommends any changes be made.

Ihler stated and to prepare some guidelines for attorneys.

Kindt stated it should also cover if the retiree chooses to take a lump sum instead of a monthly payment.

Wilson stated that is an option and there needs to be a provision for that option.

Livingston asked if the employee wasn't married when he first went to work but later got married would the spouse receive part of the contribution from the first years before marriage.

Ihler stated the spouse would only receive benefits for the years they were married.

Wilson stated code does say the QDRO has to state the number of payments or the period to which such order applies. How are most of the QDROs we receive.

Duggins stated the QDRO give us the time frame of the marriage. Endicott's gave us a timeframe and we calculated her percentage on his contribution. She will receive an amount set until it is exhausted.

Ihler stated that was based on contribution and my understanding is it should be benefit. This QDRO provided contribution and benefit but the majority is based on benefit.

Wilson stated it could be done either way. She is going to receive a percentage of what was accrued during their marriage. The key is Endicott's contribution is going to be reduced from then on out.

Ihler stated the total percentage will never exceed 100.

Mercado asked is this up to the time that they got divorced.

Ihler stated yes.

Mercado asked so she will only receive for the time they were married.

Ihler stated yes.

Wilson stated we recommend having Papahronis to look at what we are doing and to look at code to provide some sample language for a QDRO. I have spoken to him and he is willing to do this. He will be going on vacation so he may not be able to complete this before the next meeting so we may have to have a special meeting.

Hill stated sound like this should be tied to benefits. Does the code say anything about being married X number of years before being entitled to the pension of a spouse.

Wilson stated no.

Hill stated the company I work for if you are not married for 20 years the spouse is not entitled to any of your pension.

Kindt stated social security has some strong guidance on that.

Motion by Hill; **Second** by Mercado; that we submit this item to John Papahronis for his opinion. **Aye**: Hill; Kindt; Livingston; Mercado; Bayones; Ellwanger; Ihler. **Nay**: None. **Motion Passed**.

V. Comments

VI. Audience Participation

VI. Adjournment

Motion by Hill; **Second** by Ellwanger; to adjourn. **Aye**: Kindt; Livingston; Mercado; Bayones; Ellwanger; Ihler; Hill. **Nay**: None. **Motion Passed**.