

CITY OF FLINT EMPLOYEES' RETIREMENT SYSTEM
Board of Trustees Special Meeting Minutes
Hearing for David Plewes
Tuesday, October 18, 2011

A special meeting of the Board of Trustees of the City of Flint Employees' Retirement System was held on Tuesday, October 18, 2011, at 9:00 a.m. in the Committee-of-the-Whole Room, 3rd Floor, City Council Chambers, at City Hall for the purpose of conducting a hearing, at the request of David Plewes, regarding possible errors found in his pension calculation.

TRUSTEES & ALTERNATES Douglas Bingaman – Chair; Denise Bingaman (non-voting), Bryan Bond, Debra Bridges, Maryann Malloy, Sherry Murphy, Sheldon Neeley, Mark Stratman

ABSENT Mary Bland, Gregory Eason, Robert Erlenbeck, Duane Kelley, Scott Kincaid, Mark Kovach, Patricia Ramirez, Michael Townsend, Cass Wisniewski

ALSO PRESENT I'Lanta Robbins, Assistant City Attorney/Attorney for Retirement Board
Suzi Bye, Retirement & Benefits Manager
Julie Sadler, Staff Assistant to FERS
Habeeb Ghattas, Legal Counsel for David Plewes
David Lawson, Legal Counsel representing the City of Flint
Mr. & Mrs. David Plewes

1. CHAIRPERSON CALLS THE MEETING TO ORDER

Acting Chair Douglas Bingaman called the meeting to order at 9:15 a.m.

2. ROLL CALL (Attendance)

Roll was called and members were present or absent as recorded above.

3. MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE BOARD

There were no members of the public present who wished to address the Board.

4. APPROVAL OF AGENDA

A motion was made by Bryan Bond, supported by Maryann Malloy, to approve the agenda as presented at the meeting. The motion carried unanimously.

5. HEARING – DAVID PLEWES

Opening Statements - Correction of Errors issues - \$18,242.51 overpayment

Attorney David Lawson - representing the City of Flint - During his opening statement he noted that there were several errors in the calculation of Mr. Plewes pension. He also stated his belief that several issues Attorney Ghattas raised in his letter to the Board of Trustees (dated October 17, 2011) regarding Mr. Plewes were not applicable in this case. In addition, the issue raised by Mr. Plewes that he should have received an additional five years of service credit was previously dismissed *with prejudice* by a judge in a lawsuit brought by Mr. Plewes and cannot be revisited.

Attorney Habeeb Ghattas - representing Mr. & Mrs. David Plewes - During his opening statement he raised the issues in his letter to the Board of Trustees, dated October 17, 2011, which outlined his defense of Mr. Plewes and his reasons for believing that Mr. Plewes should not be required to repay any funds to the Retirement System. Specifically, these issues included the Statute of Limitations/doctrine of laches, Mr. Plewes' entitlement to five additional years of service credit, the methodology applied to the recalculation, and the reduction of his benefit pursuant to the doctrine of estoppel.

Attorney I'Lanta Robbins - representing the Retirement Board - Addressed Mr. Ghattas arguments and noted that the Board has a responsibility to follow the plan document; i.e., the Retirement Ordinance Section 35-42 regarding correction of errors. The Board has a duty to correct errors, but does not have jurisdiction to decide what is "fair." She also noted that Mr. Plewes previously sued the City regarding the five-year service credit issue and the case was dismissed with prejudice because the Court decided that it could not be heard again. The Board can only rule on whether or not there were errors in the calculation of the pension.

Attorney Lawson then called **Suzi Bye**, Retirement & Benefits Manager, as a witness. After she was sworn in, he reviewed with her the binder of 36 exhibits showing documents relating to Mr. Plewes' time worked and pension calculations. [It was noted that there was a misstatement on Exhibit 1, which should say "overpayment" of \$18,242.51.] Mr. Lawson reviewed each exhibit with Ms. Bye, followed by questions from **Attorney Ghattas**, and then Mr. Ghattas indicated that he had no objection to the exhibit.

Chairman Bingaman called for a recess at 11:36 a.m.

Mr. Bingaman called the meeting back to order at 11:48 a.m.

Attorneys Lawson and Ghattas asked follow up questions of Suzi Bye.

The Attorneys and the Board discussed the need to schedule a continuation hearing. Attorney Ghattas requested copies of Mr. Plewes' payroll records and asked that Ms. Bye be directed to review Mr. Golden's and Mr. Plewes' files to determine whether comparisons in their retirement calculations were accurate, as it is his belief that the pensions were calculated differently although it appears that there were many similarities in their circumstances.

Attorney Robbins stated that she will coordinate with the attorneys to schedule another hearing date for a continuation of Mr. Plewes' hearing.

6. OTHER BOARD BUSINESS

No other business was brought before the Board.

7. ADJOURNMENT

A motion was made by Sheldon Neeley, and supported by Debra Bridges, to adjourn the meeting at 12:12 p.m. The motion carried unanimously.

Michael A. Townsend
Secretary