

BOARD OF TRUSTEES
DOWNERS GROVE FIREFIGHTERS PENSION FUND MEETING
Downers Grove Fire Department Station 2, 5420 Main,
Fire Station 102 (Primary) and Electronic Conference
February 17, 2022 – 1700 hrs.

Agenda Item – 1

Trustee Campbell called the meeting to order at 1705 hrs.

Agenda Item – 2

Trustee Campbell made a motion requesting consent by each participant in the meeting to be recorded during the February 17, 2022 Downers Grove Firefighter Pension Board Quarterly meeting. Seconded by Trustee Bacidore.

Members

Trustee Bacidore,	Consents
Trustee Campbell	Consents
Trustee Ludwig	Consents
Trustee Moy	Consents
Non-voting Downers Grove Finance Director Judy Buttny	Consents

Member Absent

Trustee Kuchta

Guests

Paul Marchese – Marquette Associates (electronically)	Consents
AJ - Lauterbach & Amend, LLP (electronically)	Consents
Bruno	
Richard Reimer, Attorney - Reimer & Karlson LLC (electronically)	Consents

Trustee Campbell made a recommendation that a motion be made to allow electronic attendance.

MOTION: A motion was made by Trustee Campbell to conduct the August February 18, 2021 Quarterly Pension Board meeting electronically. Seconded by Trustee Bacidore.

Roll Call vote:

Trustee Bacidore,	Aye
Trustee Campbell	Aye
Trustee Ludwig	Aye

Motion carried by a vote of 3-0.

Agenda Item – 3

Approval of Minutes

MOTION: A motion was made by Trustee Campbell to approve as amended Quarterly Meeting Minutes of November 20, 2021. Seconded by Trustee Bacidore.

Roll Call vote: Trustee Bacidore Aye
 Trustee Campbell Aye
 Trustee Ludwig Aye
 Motion carried by a vote of 3-0.

Agenda Item – 4

Report from Marquette Associates

Handout
Marquette Associates DGFDP Pension Fund
Fourth Quarter Report

As most of the assets are no longer under the Board’s supervision, therefore, he will present a quick 4th quarter update. He advised that the consolidation did go through as planned on January 4, 2022. All the motions that the Board approved as far as getting cash needed for during the freeze period was there. At the end of December there was approximately 3.5 million going into consolidation. Since then all of those funds with the exception of the minus amounts had been swept out of the custodial bank and sent to 5th/Third. Whatever remains there is to pay any fees and to keep the accounts open so it can generate year end statements. Marquette Associates also has included in its report their Annual Disclosure for record keeping purposes to show how many searches they conducted relative to MWBE firms. Also a report for wrapping up the Funds’ performance fiscal year for December 31, 2021 the Fund finished up a positive 13.2%, in terms of dollars it equates to approximately a \$9 million gain in the portfolio. Over the past 10 years the Fund is up 8.8%.

Protocols for other Funds has been to keep your existing contracts open given the pending litigation regarding the consolidation. In terms of what needs to transpire today there is nothing else to report.

There is a dimitive amount of cash with the existing custodian the rest has been swept to 5th/Third which Ms. Leahy uses to pay all bills and benefits pertaining to the Pension Fund.

Mr. Marchese ended by extended sincere thanks for the confidence the Board has shown MarquetteAssociates over the past 15 years.

MOTION: A motion was made by Trustee Campbell to accept the 4th Quarter Report from Marquette & Associates. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll Call vote: Trustee Bacidore Aye
 Trustee Campbell Aye
 Trustee Ludwig Aye

Agenda Item 5 - A

Report from Lauterbach & Amen, LLP

ATTACHMENT
Lauterbach & Amen, LLP

Monthly Financial Report
For the Month Ended December 31, 2021

A.J. of Lauterbach & Amen, reviewed the Monthly Financial Report for month ended December 31, 2021. Total cash and cash equivalent at \$77,428,000. Income statement contributions from Downers Grove are just over \$4.8 million. Active firefighters contributing \$721,000. Investment income just a little over \$9 million gross of fee. Paid out about \$46,000 in administrative expenses. Pension benefits and refunds just over \$5.5 million. At the twelve months ending at December 31, 2021, the Fund is up almost \$9 million.

Supplementary information – cash analysis report shows cash balances to pay benefits of almost \$2.7 million in cash, between Harris and 5th/Third, \$1 million in U.S. Bank. Average is \$470,000 a month in benefit payments.

Pages 11-1 and 11-2 show expenses paid from the Fund from October 1 through December 31, 2021 which were previously approved.

Discussion brought up regarding being Cash heavy and should they send some of this to IFPIF? Board members suggested waiting for a few months to see how the amount currently being held in cash is adequate until consolidation is complete. Suggestion was to table any decisions until next quarterly meeting.

Trustee Campbell asked the opinion of Atty. Reimer who advised that he agreed. It is unknown how long the “Black Out” period will be before there is a set policy. That this Pension Board should continue as they are now operating and holding this amount of cash for payment of benefits.

MOTION: A motion was made by Trustee Campbell to approve the monthly report from Lauterbach & Amen. Seconded by Trustee Bacidore,
Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Ludwig		Aye

TREASURER’S REPORT

Agenda Item 6 - A

Payment of Bills

Finance Director Buttny requested that the DGFDP Pension Fund Board approve as reported by Marquette & Assoc. on Pages 11-1 and 11-2 the Vendor Check Report October 3, 2021 through December 31, 2021 in the amount of \$201,709.47. The charges are standard such as the ODOI payment for \$8,000.00 and all the typical other monthly payments.

MOTION: A motion was made by Trustee Campbell to approve the Vendor Check Report of July 1, 2021 through September 30, 2021 in the amount of \$201,709.47. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Ludwig		Aye

Agenda Item 6 – B

New Employee’s / Retirees / Issuance of a refund

Trustee Campbell advised the Fund has not received a request for issuance of a refund.

- 1) New employee Dylan Hughes has not completed all of his paperwork, therefore, his acceptance to the Pension Fund will be tabled until the next meeting.
- 2) New Employee - Gregory Stevens who started on January 10, 2022, and will be a Tier II member of the Pension Fund.

MOTION: A motion was made by Trustee Campbell to accept Gregory Stevens into the Pension Fund. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell Aye
Trustee Bacidore Aye
Trustee Ludwig Aye

Agenda Item 6 – C

Reimbursement for Trustee Moy CE

As required by statute Trustee Moy attended the 11/27/21 IPFA continuing education paid for by himself. He has submitted a request for reimbursement in the amount of \$160.00. He did complete the course and provided the continuing education certificate.

MOTION: A motion was made by Trustee Campbell reimburse Trustee Moy in the amount of \$160.00. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell Aye
Trustee Bacidore Aye
Trustee Ludwig Aye

MOTION: A motion was made by Trustee Campbell to accept the Treasurer's Report. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell Aye
Trustee Bacidore Aye
Trustee Ludwig Aye

NEW BUSINESS

Agenda Item 8 - A

FPIF Update

The Pension Fund Board has been provided with a receipt of transaction for tranche of assets that occurred on January 4, 2022. There were no problems with our securities. All of the assets were transferred as planned and as discussed with Lauterbach. Our temporary cash policy is still in place. The FPIF Board has sent news letter regarding the performance of the Fund for the first quarter as well as the savings they feel they have realized up until now.

Atty. Reimer gave an update on litigation that has been pending since early 2021. A number of police and fire pension funds (predominately police) filed a law suit seeking it declared unconstitutional under the Pension Protection clause in Illinois. Initially, the Court dismissed the individual pension funds as plaintiffs because they have no standing. Any rights that they have under the Pension Protection clause flow to the individual firefighter's participants or beneficiaries. The Court has heard oral arguments on November 10 and asked for additional briefs. The Court gave the parties lawyers until November 19 to submit. The Judge has had the case since November 19. He advised a ruling would be forthcoming. Recently, because there was no action, the plaintiff's lawyers filed another motion for a preliminary injunction and a temporary restraining order based on the Police Consolidation Board. The Court has asked the

lawyers to come up with an agreed order – which they did. The Court did not yet make a finding, this basically makes an agreement between the Fire Consolidation Board and The Police Consolidation Board that they will not initiate compliance proceedings against the plaintiffs and any other Board. The Judge’s Order is being anticipated.

Agenda Item 8 - B
Approval of 2022 COLA’s

Lauterbach & Amen advised that the total change for the COLA’s is \$13,153.48. These are all Tier I COLA’s.

Trustee Campbell advised that the 3% COLA’s are statutorily required and are automatic.

MOTION: A motion was made by Trustee Campbell to approve the 2022 COLA’s in the amount of \$13,153.48. Seconded by Trustee Bacidore
Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Ludwig	Aye	Aye

Agenda Item 8 - C
Fiduciary Liability Policy Renewal 2022-23

Bruno - (from Miserow)

They were able to obtain renewed terms with Chubb (it is A++ rated carrier) with no deductible. Premium will be \$9, 842.00 which is less than a 4% increase over last year. Also, this is the same terms and conditions as last year with a small increase to renew. No change in the deductible, no new exclusions, no coverages being renewed, only the premium that is increasing. Going with the same carrier will also mean no gaps in coverage.

MOTION: A motion was made by Trustee Campbell to renew the Fiduciary Liability insurance policy with Chubb with the premium amount of \$9,842.00. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Ludwig		Aye

Agenda Item 8 - D
Schedule of Annual Physicals for Disabled Members

Trustee Campbell advised that any member under the age of 50 and on disability is required to have

an annual physical to establish that they are in fact still disabled. The Board will confirm the birthdates of our disable members, and if there are disability physicals that need to be scheduled what is the best practice.

Atty. Reimer advised the best practices for scheduling these physicals.

1. You could allow the disabled FF/PM to go their own doctor.
2. Schedule an independent doctor of the Board's choosing.
 - a. Should go with a doctor this person has already seen due to cost of starting with new physician.
 - b. Due to COVID it might need to be a Tele med appointment
3. Hire a doctor through INSBY.

Trustee Campbell advised that the Board has tried all three options over the years and feels Option 3, hiring an independent doctor through INSBY is the best practice.

MOTION: A motion was made by Trustee Campbell to retain INSBY to schedule disability physicals for any disability pensioner under the age of 50 and will allow Tele med options at their discretion. Seconded by Trustee Bacidore.

Motion carried by a vote of 3-0.

Roll call was taken:

Trustee Campbell	Aye
Trustee Bacidore	Aye
Trustee Ludwig	Aye

Trustee Bacidore advised that Trustee Moy has electronically joined the meeting. Trustee Campbell asked Trustee Moy if he consents to be recorded. Trustee Moy gave his consent.

Agenda 8 – F

Retiree Trustee Term Expires Prior to next meeting date

Trustee Campbell advised that an election for the Retiree Trustee position will need to be held.

Trustee Campbell advised that Lauterbach has handled the elections in the past and asked **AJ.** for an approximate cost to have Lauterbach handle this. AJ advised it was around \$300.00.

MOTION: A motion was made by Trustee Campbell to retain Lauterbach & Amen to conduct the Retiree Trustee election for the expiring term of Trustee Moy with the cost not to exceed \$350.00. Seconded by Trustee Bacidore.

Motion carried by a vote of 4-0.

Roll call was taken:

Trustee Campbell	Aye
Trustee Bacidore	Aye
Trustee Moy	Aye
Trustee Ludwig	Aye

Agenda Item 8 - E

Michael Baldwin Refund/Survivor Benefit

In review, Michael Baldwin was a member of the DGFDF who left with more than 13 yrs. of service just prior to the end of 2021. He has recently passed away. Prior to passing away he did not request a refund of contributions or elect to be a deferred pensioner. He wanted to review his options with his financial adviser and had not given the Board direction either way. The purpose of this Agenda item is now that he has passed away without taking action, what does the Board do moving forward?

Atty. Reimer advised that he queried to thoughts of payment on this: refund or surviving spouse benefit. Atty. Reimer advised that he conferred with Allison from Lauterbach & Amen as they have had a good deal of knowledge in this. When looking at Section 4-114 of the Pension Code, in the first paragraph – keep in mind that there is no generally vesting period for a survivor benefit. There is a vesting period for different things i.e. Tier I, Tier II, how much time you need to have to retire, a vesting period for non-duty disability pension of 7 years, five years for an occupational disease pension.

Atty. Reimer went on that he had a similar case in the past. He looked at the statute and could find no DOI opinions on this point. He actually got an opinion from the DOI that says: “A firefighter who dies as a result of suicide dies as a result of an illness and the wife receives 54% under Section 4-114 in the first paragraph.”

Section 4-14 says, “A firefighter who is not receiving a disability pension under Section 4-110 or Section 4-110.1 dies: 1) dies as a result of any illness or accident. (NOTE: there is no vesting period). 2) or may cause while in receipt of a disability pension under this article, or 3) retirement after 20 years of service, or while vested for in receipt of a pension payable under sub-section b of 4-109 or while a deferred pensioner having made all required contributions.”

Atty. Reimer advised that he feels Mike Baldwin would be considered a “deferred pensioner” and qualifies, even though he was not in service, with 13 years of service. He could have elected not to take his money and waited until age 60 and then received a pension at 20.4% of salary. Atty. Reimer feels she should receive 54%, without factoring in dependent children’s benefits. My understanding is that the surviving spouse has four children.

Then you would need to look at Section 2. Section 2 says, “Beginning January 1, 2004, you receive the greater of the total amount if 1) firefighter died while receiving retirement pension; 2) while he or she was a deferred pensioner with at least 20 years of creditable service.” This is the only place in the Pension Code where firefighters receive less pension than police officers. Atty. Reimer feels this does not apply.

Sub-section D, “the total pensions provided under A, B and C of this article shall not exceed 75% of the monthly salary of the deceased firefighter when paid to the survivor of the firefighter who had attained 20 or more years of active service and was eligible to receive a pension when it is paid to a survivor of a firefighter who dies as a result of illness or accident. Or, when paid to the survivor of the firefighter who dies from any cause while on a disability pension. Or, when paid to the survivor of a deferred pensioner.”

Here is the question. Unfortunately, he was not a firefighter when he died. He was a deferred pensioner because he was not on the job. He had resigned. He is a deferred pensioner by Operation Law default. Had he taken a refund of contributions then it would have been over. Atty Reimer’s opinion is that Sub-section D applies here – not to exceed 75% because you have to factor in the children’s benefits and spouse. Unless, for some reason, the estate requests a refund.

Trustee Campbell reviewed that the spouse is entitled to 54% of salary and each child is entitled to 20% of salary. With the deferred pensioner’s benefit is it true that it should be paid upon his death and they do not have to wait until he would have been sixty to receive these benefits?

Atty. Reimer advised: (A Circuit Court of Cook County stated that precedential that no monies be paid until he would have been 60 years old. It is now on appeal.) – This was a police case.

Trustee Campbell queried if the spouse and children notify the Board tomorrow that they expect a survivors benefit according to statuette. What is Counsel’s advice – are we required to provide that benefit? Atty. Reimer advises, “Yes. Unless they ask for a refund.”

Trustee Ludwig asked if it would be payable immediately? Atty. Reimer advises, “Yes.”

Trustee Campbell asked if it would be retroactive to the date of his death? Atty. Reimer advises, “Yes.”

Trustee Campbell wants to be sure the Board realizes the impact to the Fund. And, for the Minutes, and for anyone listening, I would like the widow and children to receive every benefit entitled to them.

Mike's status as a deferred pensioner would have entitled him to 20.4% of his salary when he attained the age of 60. At the time of his death he was 39 years old. His salary was just slightly over \$100,000 per year. If the Fund's was to take \$20,400.00 in salary when he reached the age of 60. The statute as stated by Counsel is going to require us to pay 54% of the minimum spouse benefit, 20% per child (x 4 children) – the benefit cannot exceed 75%. That means that the Fund would be required to pay a surviving benefit starting immediately of approximately \$75,000.00 per year until the children attain the age of 18 and the 54% for the life of his spouse. This is the gravity of the situation. We want the widow and children to receive everything due them but this is a significant impact on the Fund. (This would not be subject to COLAs.)

For the sake of Due Diligence, Trustee Campbell stated that right after Mike passed away he asked Atty Reimer to investigate this situation. I feel he and his firm have done a good job. We have reached out to Lauterbach & Amen and Allison specifically (who is the authority and has seen a lot of past practice). And, personally I have reached out to the AFFI Legislative team who has bargained over some of the benefits. And, the explanation was that while that may not make sense at face value, the intent of the Legislation is that a spouse will be entitled to a surviving benefit on day 1 the firefighter becomes employed. And that benefit will in fact be a richer benefit until the person has worked long enough to exceed that benefit.

Atty. Reimer advised the law doesn't always make sense. The intent was to take care of widows and orphans of firefighters.

Trustee Campbell proposed as an action. The estate has reached out to Trustee Campbell as the Pension Board President and asked what they do. If the Board is okay with this, we can have Lauterbach & Amen calculate the benefit that we believe per statute they are entitled to. Trustee Campbell will then forward that to Mike's widow and simply inform her that she has two options. She can receive this benefit as calculated or take a refund of contributions sacrificing any future benefit.

If she wants to take the withdrawal, what happens to the children's benefits? Atty. Reimer advised if she is the executor (will) or administrator (without will) represents all the estate, not necessarily all of the heirs of law, because there could be competing interests. That is the whole purpose for probate.

Atty. Reimer advised to have Lauterbach & Amen modify the forms that the widow will indemnify and hold harmless any claims that might be made with regards to disputes under her actions.

Trustee Moy asked what if the widow decides to remarry. Does the spousal benefit continue or does it end? Atty. Reimer advised that it would continue.

Trustee Campbell asked if the Pension Board should have immediately issued the benefit upon the time of death, and do not settle this until the fourth quarter, are they responsible for interest? Atty. Reimer advised that he did not think they would be responsible for interest.

Lauterbach & Amen will provide the Board with the calculation information. There is a packet for the surviving spouse the L&A will send to Trustee Campbell to review.

MOTION: A motion was made by Trustee Campbell requesting a calculation from Lauterbach & Amen via email regarding a calculation entitled per the legal advice of Fund Counsel to widow and surviving children. Upon receiving these calculations widow will be contacted advising of all options including the cash out option and indemnify any claims of the estate.

Motion carried by a vote of 4-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Ludwig		Aye
Trustee Moy	Aye	

MOTION: A motion was made by Trustee Campbell to authorize the Board's attorney to contact the attorney for the estate providing both the surviving spouse option as well as the cash out option and indemnify any claims of the estate.

Motion carried by a vote of 4-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Ludwig		Aye
Trustee Moy	Aye	

Agenda 8

Scheduling of Quarter Board Meetings

MOTION: A motion was made by Trustee Campbell to schedule May 5 quarterly meeting
Seconded by Trustee Bacidore.

Motion carried by a vote of 4-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Moy	Aye	
Trustee Ludwig		Aye

OLD BUSINESS

Agenda Item7 - A

NONE

PUBLIC COMMENT

Trustee Campbell asked that at the next Board meeting on the Agenda Review of the Pension Board contracts and vendors.
Election results regarding the Retired Trustee position.

A questions from the audience: What is the current dollar amount of the Fund?

Trustee Campbell advised that the Fund was at \$73 million as of the tranche date. Have not received a first quarter investment statement to date.

ADJOURN

MOTION: Trustee Campbell made a motion to adjourn.

Trustee Moy seconded the motion.

Motion carried 4-0.

Roll call was taken:

Trustee Campbell	Aye	
Trustee Bacidore	Aye	
Trustee Moy	Aye	
Trustee Ludwig		Aye

The meeting adjourned at 1833 hrs.

Respectfully submitted.

Firefighter/Paramedic Anthony Bacidore, Secretary

AB: pp All Files/Pension/2021 – 2-17-22 Quarterly Meeting Minutes