

**PENSION BOARD OF TRUSTEES
DOWNERS GROVE FIREFIGHTERS
SPECIAL PENSION FUND MEETING
Downers Grove Fire Department Station 2, 5420 Main, Conference Room
January 7, 2020 – 1730 hrs.**

Members Present

Trustee Matt Campbell, Trustee Scott Cavenaile, Trustee Earl Moy, Trustee Ellen Ludwig and Non-voting Downers Grove Finance Director Judy Buttny

Members Absent:

Trustee Jeff Kuchta

Guests

Atty. Reimer – Reimer & Karlson LLC
Eric Endriukaitis – Lauterbach & Amen, LLP
By phone – Mrs. Schultz

Trustee Campbell called the meeting to order at 1733 hrs. in the training room of the Downers Grove Fire Department Station 2, 5420 Main, Downers Grove, IL. To discuss the survivor benefits for deceased member John Schultz.

Trustee Campbell gave background information stating that John was a disabled member of the department who recently passed away. He was receiving a disability benefit at the time. He has 3 minor children who are under the age of 18 and are entitled to a continuation of his benefit at 20% of his final salary to each child until they reach the age of 18. What is at issue is that they are minor children and there is not an estate for the children to advise how that pension funds should be distributed. The question is who essentially is the pension payable to, so the Pension Pension Board can distribute that benefit.

The marital status of John is divorced. His ex-wife is not his surviving spouse. She is presumably the guardian of the children as far as the Pension Pension Board knows.

Atty Reimer advised that she has custody, but the divorce settlement does not necessarily identify her as the guardian. The problem is because she is the ex-spouse, she is not a beneficiary. Writing a check to her, even though she is the only custodial parent, the Pension Board cannot ensure that the money goes for the maintenance and benefit of the children. The Pension Board does have a fiduciary duty to the beneficiaries, therefore, the three surviving children. The Pension Board must be assured that the money that is paid goes for the benefit and maintenance of the children.

Atty. Reimer continued that typically this happens one of three ways:

- 1) You are allowed by statute to pay to a Trust. If the Pension Board pays to a Trust and the trustee distributes the funds. The Pension Board then has fulfilled its fiduciary duty to be sure that the trustee will ensure it is used for the maintenance and welfare of the children. The Trustee would be accountable to the Court for distributing the funds correctly.
- 2) The Pension Board could go to Court to receive a court order appointing the surviving spouse as plenary guardian, therefore, guardian of the estate of the three minor children. Court appointed guardians are obligated by law that any funds in the estate of a minor is used for their food, clothing, shelter, education – necessities.
- 3) Write a check to the mother and not direct deposit it, noting on the check, indicating the purpose of the check from the Pension Fund indicating “For the Benefit of Minor Child”. The problem is that there is no way to monitor this option.

Trustee Campbell advised that he had a discussion with Becky Schultz after John passed away informing her that the Pension Board would need a court order asking her to speak with an attorney regarding the matter. She spoke with an attorney that said she might have to get letters of office declaring her as the guardian but because she was the ex-wife, and not the next of kin, she would not have the right to request those. John Schultz’s sister would have to request that documentation as the next of kin. Becky Schultz stated that she was advised by her attorney that she did not need anything other than her divorce papers that she was the guardian. Trustee Campbell asked Becky Schultz to provide a letter from that attorney stating that position so the Board could debate this. To date Becky Schultz has not provided a letter from her attorney with that information as her position is that if she requests that from him she would have to retain him.

Atty. Reimer advised that the biggest problem is that she is not the beneficiary and therefore a check cannot be written to her.

The Trustees felt that setting up a trust for the children would be in their best interest. Atty. Reimer advised that the trust is set up through a trust company, i.e. a bank which is authorized by law to set up a trust which ensures that the money is spent as set forth in the trust. The mother can then petition the trustee for funds to cover maintenance of the beneficiary children. Mother could be a trustee but is bound legally and is accountable for distribution of the funds.

Atty. Reimer reiterated that the Pension Board must decide which option based on their fiduciary duty to the beneficiary children of Mr. Schultz and to the Pension Fund itself.

Atty. Reimer advised that he thinks legally, set up and maintenance fees of the trust could be deducted from the trust.

MOTION: A motion was made by Trustee Campbell to direct Becky Schultz to establish a trust for the three minor children so the Pension funds could be deposited for the children. Seconded by Trustee Moy.

Motion carried by a vote of 4-0.

Trustee Campbell requested Atty. Reimer compose a letter to send to Rebecca Schultz, at her current address, to establish a trust and outline what needs to be done.

MOTION: A motion was made by Trustee Campbell to authorize the Attorney to write a letter to Rebeca Schultz advising that the Pension Board will require a trust be established and submit a copy of the trust document to the Board before payment can be made to the beneficiary children. Seconded by Trustee Cavenaile.
Motion carried by a vote of 4-0.

Agenda Item – 3

Tuition Reimbursement for Board Member

Trustee Campbell advised Trustee Moy attended a Continuing Education seminar which is required by Statute to be a Board member. Trustee Moy attended on October 7 and 8, 2019 with a total cost \$445.68 which he paid for on his own, has provided documentation and is requesting reimbursement.

MOTION: A motion was made by Trustee Campbell to reimburse Trustee Moy in the amount of \$445.68 for Continuing Education. Seconded by Trustee Cavenaile.
Motion carried by a vote of 4-0.

Roll call was taken:

Trustee Campbell	Aye
Trustee Cavenaile	Aye
Trustee Ludwig	Aye
Trustee Moy	Aye

Rebecca Schultz returned Trustee Campbell's call.

Trustee Campbell advised Rebecca Schultz that on the advice of the attorney they passed a motion for Rebecca Schultz to establish a trust for the beneficiary three children. The Pension Board has a fiduciary duty to ensure that the funds are benefit of the beneficiary children.

Atty. Reimer advised her to contact Kane County Bar Association for Legal aid to try to obtain a lawyer to set up the trust. Rebecca Schultz advised she was hoping to do this without a lawyer because of the cost. Atty. Reimer advised her to contact her bank to set up a trust so she could access funds for the maintenance of the three beneficiary children.

Atty. Reimer advised that a letter from the Pension Board would be in the mail to her within the week to outline these points. He also advised her that the Pension Board would be agreeable to him talking with the trust officer at the bank to help set this up.

Rebeccas noted she would not give up guardianship of her children. Atty. Reimer advised her that this was guardianship of the estate not of her children.

Ms. Schultz advised that she would go to the bank in the morning to set up this trust.

PUBLIC COMMENT

None

ADJOURN

MOTION: Trustee Campbell made a motion to adjourn.
Trustee Moy seconded the motion.
Motion carried 4-0.

The meeting adjourned at 1829 hrs.
Respectfully submitted.

Firefighter/Paramedic Scott Cavenaile, Secretary

SC:pp All Files/Pension/2020 – 1-07-20 Special Meeting

