

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

PENSION COMMITTEE

June 5, 2018

The Metropolitan Employee Benefit Board's Pension Committee met on Tuesday, June 5, 2018 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:58 a.m.

Committee Members present: Chair: W. Todd Henry; Vice-Chair: Talia Lomax-O'dneal; Members: Christine Bradley and B. R. Hall, Sr. Alternate member(s): Edna J. Jones and Stephanie Bailey.

Benefit Board Members present: Jerry Hall, Mark Young, and Shannon B. Hall

Others present: Christina Hickey, Metro Human Resources, and Nicki Eke, Attorney, Metro Legal.

BENEFIT BOARD ITEMS

The Human Resources staff submitted the following for the Committee's consideration and appropriate action:

1. Pension review – Service pensioner from Metropolitan Nashville Police Department (MNPD).

Christina Hickey reported to the Committee that at the March 20, 2018 Study Session and the April 3, 2018 Benefit Board, Metro Legal updated the Board on the status of investigations on the service pensioner from MNPD. She stated the Board referred this item to the Pension Committee for review and discussion in order for the Committee to determine what they would like to review, what information they would like to request and in what timeframe they would like to have this information.

The pensioner and his attorney, David Raybin, were present.

David Raybin requested that any discussions regarding review of this pension be done after the Audit Committee's report is filed, (which will be around June 26th).

Committee members requested specifically who authorized the overtime, if the civil service rules regarding overtime were followed, who approved (signed off on) the overtime, who signed off on the court settlement and what formula was used to determine what the payback was.

The Committee questioned whether or not any correspondence/information has been received by Human Resources (HR) regarding the audit and the timeline.

Christina Hickey stated that the only information HR has received is from David Raybin regarding completion of the audit.

The Committee discussed what the audit may contain and that the audit should be reviewed at the Committee level before going to the Board.

Todd Henry moved to continue discussions regarding review of this pension at the Committee level and once the audit is completed the Board receive the full report for review.

It was also noted to ask that a scope document be provided in order to answer the questions brought up today.

Christine Bradley seconded the motion.

1. Pension review – Service pensioner from Metropolitan Nashville Police Department (MNPB). (continued)

The Committee requested that someone from the District Attorney's, (DA), office be available to answer questions regarding the calculations for the criminal case.

The Committee discussed section Code section 3.08.240 and questioned who decides when charges are brought forth and who makes the final decision.

Nicki Eke, Legal Department, stated that a criminal matter is not within the purview of the Legal Departments, it is under the DA.

The Committee questioned who makes the actual decision whether or not under that section charges are filed.

Nicki Eke, Legal Department, stated that the Board can make a recommendation and then it will be reviewed if the Board wishes.

The Committee questioned who makes the final decision.

Nicki Eke, Legal Department, stated that it depends upon the specific facts and circumstances.

After discussion of a timeline (June 26th) for obtaining the information requested, a vote was taken on the motion to have HR staff obtain the requested information and was approved without objection.

It was noted that the Committee should know by the July Board meeting how long it will take to review the information and then another Pension Committee meeting will be scheduled accordingly.

2. Pension review – Service pensioner from General Sessions Court.

Christina Hickey reported to the Committee that at the May 2, 2017 Benefit Board meeting, the Board approved a service pension for this employee from General Sessions Court. She stated the Committee at this time needs to determine if they would like to review information surrounding this pension and what information they would like to request and in what timeframe they would like to have this information.

There was not a representative present for this item.

The timeline on the approval of this service pension was discussed.

Nicki Eke, Legal Department, stated that a service pension was approved previously with the Board reserving the rights to revisit the matter once information is obtained. Ms. Eke stated that there is a state statute TCA 8-35-124 that talks about no elected or appointed official shall be entitled to receive retirement benefits from any public pension system if such employee or official is convicted in any state or federal court of a felony arising out of that person's employment or official capacity constituting malfeasance in office. She stated that the Board will need to make a determination based on the information that is obtained from the federal case whether there has been a conviction and what that conviction is and review that information to determine whether it falls under the statute. She stated that if it does then the pension has to be stopped.

The Committee discussed determining the types of documents needed and whether or not the conviction falls in the category of allowing the Board to make a decision regarding the pension.

Nicki Eke, Legal Department, stated that information needs to be reviewed regarding the nature of the conviction. She stated that she is not aware of any documents that have been provided. She stated that there have been news reports, however the actual court documents need to be obtained.

The Committee discussed having a representative present on behalf of the pensioner and someone from the Federal Courts.

2. Pension review – Service pensioner from General Sessions Court. (continued)

The Committee was in agreement that they need information from the US Attorney's office, (the final document to be reviewed by Metro Legal to determine if it meets the standard) and a representative for the pensioner by the July meeting.

The Committee discussed whether or not the pension being provided can also be clawed back.

Nicki Eke, Legal Department, stated that the TCA section states that upon conviction or upon a plea of guilty or nolo contendere the benefit shall be stopped immediately.

There was further discussion regarding whether or not the pension can be clawed back, whether or not the conviction would meet the requirements, and the Board acting as soon as possible to address the matter.

The Committee discussed timing and if this can be brought to the regular Board meeting.

Nicki Eke, Legal Department, stated that at the time the Board made a decision on this case it was not explicitly referred to the Pension Committee and the Board can make the decision without having it referred to the Pension Committee.

The Committee requested the final judgement, have the legal department review it to see if it meets the criteria for the state statute.

Todd Henry so moved. Talia Lomax-O'dneal seconded and the Committee approved without objection.

With nothing further presented, the meeting adjourned at approximately 10:16 a.m.

ATTEST:

APPROVED:

Shannon B. Hall, Director
Human Resources

W. Todd Henry, Chair
Pension Committee