

## MINUTES

### METROPOLITAN EMPLOYEE BENEFIT BOARD

#### PENSION COMMITTEE

**September 18, 2018**

The Metropolitan Employee Benefit Board's Pension Committee met on Tuesday, September 18, 2018 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:42 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.

Alternate member Stephanie Bailey was unable to be present.

Benefit Board Members present: Jerry Hall, Stacey Rucker, 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 (MNPDP).

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

Glenn Funk, District Attorney, was also present.

Committee Chair, Todd Henry reviewed the staff report with the Committee. He stated that the following has been submitted for review: 1) A copy of the final Internal Audit investigative report for then-Mayor Megan Barry's travel and dignitary security detail extra time expense investigation; 2) A scope document from Internal Audit with the information to be included in their audit report; 3) Information on what formula was used to calculate the \$45,000 repayment from the service pensioner from MNPDP; 4) Information on who signed off on the court settlement for the service pensioner from MNPDP; 5) Information on who approved overtime for the service pensioner from MNPDP and who signed off on it; 6) Information on who authorized overtime for the service pensioner from MNPDP and if the Civil Service Rules on overtime were followed; 7) Human Resources, on behalf of the Committee, submitted a request for a representative of the District Attorney's Office to meet with the Pension Committee.

Committee Chair opened the floor to specific questions for the pensioner or his representative and the District Attorney's Office.

It was requested that Glenn Funk, District Attorney, summarize the memorandum regarding the repayment amount.

Glenn Funk stated that it was decided that it would be impractical and unworkable to do a line by line and hour by hour review to determine exact amounts of time the pensioner devoted to actual appropriate work during his time on the security detail. He stated that in order to try to determine an appropriate restitution amount on the criminal case was to look at his total billings to the city for overtime during the previous administration when he was also serving in the same capacity for Mayor Dean and compared them to the time under the Barry administration. He stated they looked at what other members of the security detail have as far as hours over a similar time period. Mr. Funk stated that Mayor Barry was using a significantly higher amount of security during her day to day job performance and that this pensioner received a much

higher increase than the increase for the other security detail of roughly 30 percent to the pensioner's 70 percent increase. He stated that as part of the criminal settlement restitution was discussed with his attorney and the amount (45,000) was deemed appropriate for what extra benefits he was receiving from the city as part of the security detail. Mr. Funk also stated that he structured the plea agreement in a way that it did not tie the hands of the Board regarding the benefits of the service pensioner.

There was some discussion regarding how the time (non-working hours) versus relationship) was differentiated.

Glenn Funk stated that they compared how much extra he was making once Mayor Barry took office to how much was billed during the Dean administration. He stated they then deducted from that a rough amount that would adequately and appropriately say that all of the security detail was getting more hours and he was the only one with this type of personal relationship.

There was some discussion regarding the plea deal versus going to court.

Glenn Funk stated that often when you are dealing with restitution, whether it's someone who's been embezzling or someone who's committed a consistent number of thefts from a store, the restitution sometimes comes out a little bit low. He stated that in this case it was pretty close give or take five thousand one ways, or the other.

There was some discussion of how they weighed the amount of overtime earned under the Dean administration versus the Barry administration.

There was some discussion regarding the increases in security requests and overlapping issues with the personal versus work relationship and that it was important to reduce the restitution amount by the amount that everybody else had gone up (30%).

There was further discussion regarding how the overtime of the other officers compared to this pensioner's, which was roughly a 30% increase.

The Committee discussed the approval of the overtime and how to make sure that there are proper checks and balances going forward.

There was some discussion regarding the recommendations from the audit, addressing those recommendations, and the way the overtime and the travel was approved.

Todd Henry stated that at first the travel authorizations for dignitary protection came through the Police Department. He stated that it got changed to where the travel got approved through the Mayor's Office and the overtime was always approved through the Police Department. He also stated that the Police Department wishes it had all the resources necessary that they never had to pay overtime. He stated that they have asked for budgets to accommodate that but overtime unfortunately is a part of policing in a city that is growing with a department that is not.

David Raybin, attorney, addressed the Committee when asked if he was in agreement with the \$45,000 and stated no. He stated that the restitution of \$45,000 is not binding on this Board. He stated that was a criminal case. He stated that he and his client are in agreement that there should be a reduction in his pension amount and suggested an \$11,000 reduction. Mr. Raybin reviewed the pensioner's current benefits, spousal benefit, job history, periodic bonuses/raises and indicated that a comparison of his total salary and overtime across the years is not entirely appropriate except as an approximate gauge. He stated that the auditor gave options and concluded that the reduction should be between \$10,000 and \$45,000. He reviewed the scenarios associated with different reduction amounts. Mr. Raybin also reviewed the plea agreement with the Committee. He again stated that the \$45,000 is not binding on this Board and stated that the \$10,000 is binding as it was an admission and suggested using the same amount as Mayor Barry, \$11,000, so that there is parity between the two. He also reviewed two findings in the audit that state that the total compensation the pensioner received for non-work related activities is not determinable and that the allegation that government funds were used for out of town travel whose purpose was exclusively personal is unsubstantiated. Mr. Raybin also reviewed those that were

interviewed by the auditors, (13 in total; 8 from the Mayor's Office, 4 from the dignitary security detail, and 1 from Finance), in addition to Chief Anderson, Deputy Chief Hagar and Michael Alexander. He also reviewed the formula used to calculate the rate of pay (regular and overtime) and the length of time in question,

Talia Lomax-O'dneal moved to reduce the service pension by \$11,000. B.R. Hall seconded.

The Committee questioned the calculation regarding the overpayment and how that was factored into the auditor's report.

Shannon Hall stated that when this information was requested the correction had not been made. She stated that the correction has been made, but these numbers do not accommodate that correction.

The Committee discussed what the Mayor paid and whether or not that was for the criminal charges, overtime or just what.

It was also noted that what the Mayor paid was irrelevant.

The Committee further discussed the audit report where it states that since there was no log of detailed activities and the dignitary detail security has other assigned duties the investigator cannot determine whether these differences were an abuse of compensated time.

The Committee also discussed page 11 paragraph 10 of the audit where it states that they reviewed 111 days where there was 900 hours charged and based on the schedule received and hours claimed there were 12 instances out of 111 days where they did not match up. The difference in time was 13 hours at \$60.00 per hour for \$780.00. This is what the Audit Committee could prove during the investigation.

Talia Lomax-O'dneal amended her motion to reduce the pension by \$10,780. The seconder was in agreement with the amendment.

Nicki Eke, Legal Department, stated that for clarity the motion would be to reduce the earnings used to calculate the pension.

Talia Lomax-O'dneal stated yes.

A vote was taken on the motion to reduce the earnings used to calculate the service pension by \$10,780 and the Committee approved without objection.

With nothing further presented, the meeting adjourned at approximately 10:28 a.m.

ATTEST:

APPROVED:

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**Shannon B. Hall, Director**  
**Human Resources**

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**W. Todd Henry, Chair**  
**Pension Committee**