

BOARD OF TRUSTEES  
Division of Public Works Retirement System  
Meeting Minutes  
December 22, 2020

A meeting of the Board of Trustees, Public Works Retirement System was held at 12:30 p.m. on Tuesday, December 22, 2020, via Zoom Video Conference Call.

**Trustees Present:** Frank Anderson, Mayoral Appointee  
David Fredette, Treasurer, Member  
Kevin Moriarty, BPW Commissioner  
Matt Dube, Employee Member

**Trustees Absent:** Nick Caggiano, Employee Member (Retired)  
Kathie Berube, Employee Member  
Michael O'Brien, Aldermanic Liaison (Assistant Chair)

**Others in Attendance:** Diane Thibodeau, Executive Assistant

Chairman Anderson

As Chairman of the Board of Trustees, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are: Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

*To join by phone dial: 1-929 436-2866 - Meeting ID: 993 8113 4692, Password: 379558. If you experience difficulty connecting to the meeting, please call (603) 589-3140.*

We previously gave notice to the public of the necessary information for accessing the meeting, through public postings. Instructions have also been provided on the City of Nashua's website at [www.nashuanh.gov](http://www.nashuanh.gov) and publicly noticed at City Hall and the Division of Public Works Administration Building at 9 Riverside Drive.

If anybody has a problem accessing the meeting via phone, please call 603-589-3140 and they will help you connect.

In the event the public is unable to access the meeting via the methods mentioned above, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-To-Know Law.

**Roll Call:**

Trustee Anderson

Due to the Governor's Emergency Order for the COVID-19 Pandemic, I am in my office, alone.

Trustee Fredette

Due to the Governor's Emergency Order for the COVID-19 Pandemic, I am in my office at City Hall, alone.

Alderman Moriarty

Due to the Governor's Emergency Order for the COVID-19 Pandemic, I am in my office, alone.

Trustee Dube

Due to the Governor's Emergency Order for the COVID-19 Pandemic, I am in an office at the Street Dept., alone.

Also present:

Executive Assistant, Diane Thibodeau - Due to the Governor's Emergency Order for the COVID-19 Pandemic, I am in my home alone.

**Expected Visitors:**

None

**Minutes of the Meeting:**

The minutes of the November 24, 2020 meeting were presented for review and acceptance.

**MOTION BY:** Trustee, Frank Anderson moved to accept, place on file, and approve the minutes of the November 24, 2020 meeting.

**SECONDED BY:** Trustee, Kevin Moriarty

**MOTION CARRIED:**

**DISCUSSION:**

A Viva Voice Roll Call was taken, which result as follows:

Yea: Trustee Anderson, Alderman Moriarty, Trustee Fredette, Trustee Dube

Nay:

0

**MOTION CARRIED 4-0-0**

**Personnel:**

The resignation of Mr. Ronald Lucci was presented to the Trustees with his final calculation. The board approved the resignation and the return of his contributions with interest.

**MOTION BY:** Trustee, David Fredette moved to accept the resignation of Mr. Ronald Lucci and the return of his contributions.

**SECONDED BY:** Trustee, Frank Anderson

**MOTION CARRIED:** Unanimously

**DISCUSSION:**

A Viva Voice Roll Call was taken, which result as follows:

Yea: Trustee Anderson, Alderman Moriarty, Trustee Fredette, Trustee Dube

4

Nay:

0

**MOTION CARRIED 4-0-0**

The death benefit of Mr. Thomas Kelly was presented to the Trustees in the amount of \$3,000 to Mr. Kelly's beneficiary.

**MOTION BY:** Trustee, David Fredette moved to approve the death benefit payment for Mr. Thomas Kelly in the amount of \$3,000.

**SECONDED BY:** Trustee, Kevin Moriarty

**MOTION CARRIED:** Unanimously

**DISCUSSION:**

A Viva Voice Roll Call was taken, which result as follows:

Yea: Trustee Anderson, Alderman Moriarty, Trustee Fredette, Trustee Dube

4

Nay:

0

**MOTION CARRIED 4-0-0**

**Old Business:**

Trustee Anderson brought up the issue of the City cost sharing the pension administration and is still waiting to send the drafted letter to Mayor Donchess for approval by the trustees. Trustee Anderson commented that the referenced letter may actually come up on second item today. The second item on the agenda is to get an update on the Pension Ordinance to ensure that it conforms to IRS Regulations. In the process of previously asking Attorney John Rich of McLane Middleton to advise on a

personnel matter he reviewed the Pension Plan Ordinance and discovered that it does not currently conform to IRS Regulations. Attorney Rich has recommended that we bring it into the proper format for the IRS. Trustee Fredette said that the potential danger is that if the ordinance is not brought up to regulation, there could be adverse tax consequences to the City and the employees. Trustee Fredette was able to obtain a cost estimate from Attorney Rich and said that it will be a two-step process that will cost approximately \$20,000. He estimates that it will be an \$11,000 fee to do the IRS voluntary correction and a \$3,000 for the second step. The IRS will also charge a user fee of about \$3,500. Trustee Anderson said he brings this issue up to see if we want to go forward with this and to approve the fee to Attorney Rich to bring us up to compliance. Trustee Fredette commented that he didn't think we had a choice and we needed to take this step in case there is an IRS audit which would put the whole plan in jeopardy along with penalty fees. Trustee Fredette stated that he had a conversation with our CFO, John Griffin and he said that they would not be able to handle the changes to the Ordinance but the City Attorneys could assist Attorney Rich who would do most of the work. Mr. Griffin said that he would look into the City paying for some of it or all of it. Trustee Anderson agrees that we have to move forward with this so that it doesn't fall into some compliance nightmare. He said to point out to the Mayor that it is \$20,000 now but could be \$100,000 if we don't address it. Trustee Anderson also addressed Trustee Dube's question on why do we need to hire an attorney when the City has attorney's working for them. Trustee Anderson said that as noted previously, the City attorney's do not have experience in pension law. This pension law is very unique. Trustee Dube said he agrees. Trustee Anderson also pointed out that we are not the only municipality that has had to address this issue. He stated that Attorney Rich has already helped other municipalities. Trustee Anderson said the only question he had with Attorney Rich's proposal was that he may want to meet with City Officials to obtain more information. Trustee Fredette said that he believes it may only be with himself and possibly our City Attorney, Dory Clarke.

**MOTION BY:** Trustee, Frank Anderson would like to move to request authorization of up to \$20,000 for legal fees and expenses out of the plan and reimbursed by the City of outright by the City to Attorney John Rich of McLane Middleton to begin work in updating the Pension Ordinance to ensure that it conforms to IRS Regulations.

**SECONDED BY:** Trustee, Fredette

**MOTION CARRIED:** Unanimously

**DISCUSSION:** Trustee Moriarty mentioned that on Attorney Rich's letter he mentioned this as a "Charter" change and not an "Ordinance" change. Trustee Fredette said that it is an "Ordinance" change. Trustee Anderson said that Alderman O'Brien will be a big help with this as far as any terminology goes. Trustee Dube asked how long the board anticipates this will take to complete. Trustee Fredette said he would anticipate approximately two months for Attorney Rich's work but then it would have to go to the Board and a Public Hearing. Trustee Anderson said he would think maybe by the end of the first half of 2021.

A Viva Voice Roll Call was taken, which result as follows:

Yea: Trustee Anderson, Alderman Moriarty, Trustee Fredette, Trustee Dube

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Nay:

0

**MOTION CARRIED 4-0-0**

Trustee Anderson wanted to review/discuss the issue of calculating the 4% simple interest being applied to pension contributions for payouts. Trustee Fredette is doing some research on this but Trustee Anderson wanted to keep it in mind when they go to the Mayor with the Hooker & Holcombe annual fee issue. Trustee Anderson said that the board wants to be able to say that they have done everything in their power to control costs.

Trustee Anderson wanted to bring up the contract review for Pension Administrative Services that Hooker & Holcombe is providing. He thinks this will be ongoing in "Old Business". Trustee Fredette said that currently there is a nine transaction limit in the contract and our backup shows that we average thirteen transactions and no one is able to recall where the number nine came from. Trustee Fredette said that anything after nine, we are being charged \$500 per transaction. Trustee Anderson feels that we should be able to approach Hooker & Holcombe with the boards concerns. Trustee Fredette said maybe we can have Hooker & Holcombe call into on our February meeting to discuss the contract bill.

**New Business:**

Approval of the current disbursement of funds for the period of November 1, 2020 thru November 30, 2020 in the amount of \$259,602.17 was presented to the Board. The Trustees reviewed the detail.

**MOTION BY:** Trustee, Frank Anderson moved to approve the current disbursement of funds for the period of November 1, 2020 thru November 30, 2020 in the amount of \$259,602.17.

**SECONDED BY:** Trustee, Kevin Moriarty

**MOTION CARRIED:** Unanimously

**DISCUSSION:**

A Viva Voice Roll Call was taken, which result as follows:

Yea: Trustee Anderson, Alderman Moriarty, Trustee Fredette, Trustee Dube  
4

Nay: 0

**MOTION CARRIED 4-0-0**

**Period for Public Comment:**

None

**Items by the Trustees:**

Trustee Fredette said that he had a call from a retiree, Mr. Morse, who worked at the Wastewater Dept. for many years. His question was that since the AFSCME Union Contract was just passed will that mean his monthly payment will increase. Trustee

Fredette said that no, it will not. He said Mr. Morse was going to review the ordinance himself and would call him back but did not provide an email address or telephone number for a return call. Trustee Fredette also noticed that a number of Public Works employees have put in requests for retirement calculations in the last two weeks. He guesses that maybe it's because the union contracts have just been approved. The question was that because the contract has just passed and was overdue for renewal will this mean they will retirees get retroactive and future monthly increases. Trustee Dube asked that since these employees have retired, have they been making payments to the pension system. Trustee Fredette said no therefore they wouldn't be able to get an increase in their monthly payment. They will get a "retroactive" check if they've worked in the last three years since the contract was renewed but it would not be an ongoing payment. Trustee Fredette said that there is nothing in the contract that addresses this issue. Trustee Anderson said when he finalizes his letter to the Mayor he will point out that several Municipal Pension Plans have had to ask their City's or Town's for help with contributions to their plans. He's hoping the City will meet the board at least half way on this issue.

Trustee Fredette mentioned that we should have a new board member by the January meeting.

Next meeting will be Tuesday, January 26, 2021 at 12:30p.m.

**MOTION TO ADJOURN:** Trustee, Frank Anderson moved to adjourn at 1:01p.m.  
**SECONDED BY:** Trustee, Kevin Moriarty

A Viva Voice Roll Call was taken, which result as follows:

Yea: Trustee Anderson, Alderman Moriarty, Trustee Fredette, Trustee Dube  
4

Nay: 0

**MOTION CARRIED 4-0-0**

*Minutes Transcribed by: Mary Woods*