



Margate CRA

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Meeting Minutes Employee Benefits Trust Fund

Chair, James Wilbur
Vice Chair, Joanne Simone
Secretary, Jackie Chin-Kidd
Trustee, Adam Sitman
Trustee, Laura Sudman
Trustee, Efrain Suarez
Trustee, Mark E. Weinrub

Thursday, April 16, 2015

2:30 PM

Commission Chambers

CALL TO ORDER AND ROLL CALL

- Present:** 4 - Chair James Wilbur, Vice Chair Joanne Simone, Trustee Efrain Suarez and Trustee Mark Weinrub
- Not Present:** 1 - Trustee Laura Sudman
- Absent:** 2 - Secretary Jackie Chin-Kidd and Trustee Adam Sitman

Laura Sudman arrived at 2:38 p.m.

1) PUBLIC DISCUSSION

THERE WAS NO PUBLIC DISCUSSION.

2) MINUTES

A. MOTION APPROVING MINUTES DATED JANUARY 15, 2015

A motion was made by Trustee Weinrub, seconded by Vice Chair Simone, that this Motion be approved. The motion carried by a unanimous vote.

3) INVOICES

A. MOTION APPROVING PAYMENT OF INVOICE(S)

A motion was made by Trustee Weinrub, seconded by Vice Chair Simone, that this Motion be approved. The motion carried by a unanimous vote.

4) REPORT FROM ATTORNEY

ATTORNEY MARK W. FLOYD, Mierzwa and Associates P.A., informed the Board that he was asked by the City to provide a written opinion on why 1099's for the benefits provided by the fund were not issued, as well as why there were no withholdings for income tax or payroll taxes. He explained that the reason was because of the exemption from taxation under Section 501-C9 of the Internal Revenue Code, which was the section that created Voluntary Employee Beneficiary Associations (VEBA). He said that as long as the Trust Fund qualified under 501-C9, money could be taken in and benefits could

be provided out on a tax free basis depending on what the benefits were for. He further explained that the reason participants filled out the forms every year to verify eligibility and health insurance, was because our benefits were used to offset health insurance premiums. He stated that as long as the funds were used for that purpose, they were exempt from taxation on both coming in and going out. He said that the reason FICA or other payroll taxes were not withheld because the City paid all or a portion of the health insurance premiums. He stated that there were no deductions from it including payroll taxes. He added that payments for health insurance were exempt, and that retirees were treated the same as employees, and that as long as the payment was used for health insurance premiums, it was exempt from any deduction of any kind. He stated that it was actually excluded from gross income and did not have to be claimed on a tax return; therefore, no 1099 or withholding deductions for payroll taxes was required. He felt that he should have the Board's permission to provide that information to the City in writing. ATTORNEY FLOYD added that he recently put in a request for a fee increase to \$240.00 per hour, which was a 6.66 percent increase from \$225.00 per hour. He noted that fees had not been increased in over three years; therefore, it was 2 percent per year.

There were no objections to having the Attorney provide the written opinion to the City.

A motion was made by Trustee Mark Weinrub, seconded by Trustee Efrain Suarez, that the Attorney's new fees of \$240.00 per hour , from \$225.00 per hour, which was a \$15.00 per hour increase, be approved. The motion carried by the following vote:

Yes: 5 - Chair Wilbur, Vice Chair Simone, Trustee Suarez, Trustee Sudman and Trustee Weinrub

Absent: 2 - Secretary Chin-Kidd and Trustee Sitman

5) REPORT FROM TRUSTEES

CHAIR JIM WILBUR noted that new hires were not eligible for the fund after October 1, 2010. He stated that he received an e-mail from the City Clerk's office stating that effective May 31, 2015, his term, as well as the terms of Joanne Simone and Jackie Chin-Kidd were expiring. He said that he spoke with the City Clerk who would place Joanne Simone's appointment on the Agenda. He added that an election would have to be held for Jackie Chin-Kidd and he would send a letter to the City Manager to inform him to make a selection for representing the Department Heads. He stated that he would follow up with an e-mail informing the City Manager that he was still very interested in being on the Board. Chair Wilbur provided a 365 day printout from October 14, 2014, indicating everything that was taken in and paid out. He reviewed the printout briefly and indicated that on June 30th the City's contribution of one percent of the payroll was received, and that on January 1st money was transferred from the Fund to pay off benefits. He added that two death benefits were paid, \$3,900 in insurance was paid, microfilming under Office Supplies was paid at \$750.00 and some type of tax filing was to be paid by June 30th for \$122.00.

ATTORNEY MARK W. FLOYD, Mierzwa and Associates P.A., clarified that it was \$1.00 per head for each retiree for Patient Protection and Affordability Act. He noted that there was one more year to pay.

CHAIR WILBUR noted that Steve Gordon's fees for \$2,300.00 was indicated for income tax filing, as well as the Attorney's fees, which were only \$1,000 last year.

VICE CHAIR SIMONE questioned why the Fund still paid out when someone retired and came back.

CHAIR WILBUR said that they were still considered retired and drawing the Florida Retirement System (FRS) benefit.

VICE CHAIR SIMONE noted that if returning back to the City, the City paid health insurance, and Chair Wilbur said that a percentage was paid.

MARK WEINRUB said that if a retiree was rehired after the 2010 deadline, they would not be eligible for any additional funds.

ATTORNEY FLOYD stated that they would not be eligible for an additional benefit, but would be eligible for the benefit they were receiving. He added that their benefit would be capped at their expenses. He clarified that if the City was paying a portion of the health insurance, the Fund would only cover for the reimbursement of what they paid out of pocket.

CHAIR WILBUR said that if they came back prior to 2010, they would have to do another 10 years in order to be eligible for another benefit. He added that if the retiree began drawing the second benefit, it could not exceed the actual cost of the monthly premium.

VICE CHAIR SIMONE said that after collecting the second benefit, there might be no health insurance cost to the retiree, and she asked whether the Board felt that was fair.

EFRAIN SUAREZ felt that it was fair if they did two careers.

LAURA SUDMAN agreed and felt that they still would not get reimbursed what they pay whether they work here or somewhere else.

CHAIR WILBUR noted that to get the maximum benefit, an employee would have to work 25 years, and that another 10 years would be needed for the additional benefit.

VICE CHAIR SIMONE questioned whether there was a set fee they received monthly.

CHAIR WILBUR said that it was \$50 to start and then \$3.40 for every year additional; therefore, the maximum benefit was \$1, 620.

VICE CHAIR SIMONE mentioned someone receiving a benefit; however, that individual was a School Board employee who was getting part of her premium paid and was also receiving from the City.

CHAIR WILBUR said that the individual would have to show proof of insurance.

ATTORNEY FLOYD clarified that if the School Board was paying a portion of the premium, the individual was paying the rest out of pocket, which was her proof of expense.

LAURA SUDMAN asked whether there was some way to control people submitting incorrectly.

ATTORNEY FLOYD explained that the retirees were submitting their proof of expenditures to the Trust, and there was nothing the Trust could do to control somebody submitting to someone else for additional reimbursement. He said that would be tax fraud and would be on that individual.

VICE CHAIR SIMONE questioned why Commissioners, who were not full time employees, were included in the Trust.

ATTORNEY FLOYD said that when the Trust was created in 2000, it included all City employees and the Commission.

CHAIR WILBUR added that all budgeted part-time positions were also eligible for this benefit, but at half the rate.

ATTORNEY FLOYD clarified that anybody working July 1, 2000, to October 1, 2010, qualified for the Fund.

CHAIR WILBUR showed everyone the new Logo for the letterhead, which was liked by all.

A motion was made by Trustee Sudman, seconded by Trustee Weinrub, that the new logo be approved. The motion carried by a unanimous vote.

CHAIR WILBUR said that he had a Budget worked up for the next Fiscal Year. He noted that the Fiscal Year was ending May 31, 2015. He estimated that these figures would probably cover the Fund for the year. He noted that he put a little extra money into Errors and Omissions because it was the insurance, which was \$3,900 last year. He clarified that Office Automation pertained to microfilm, software, etc. He added that Attorney fees and Accountant fees were based on what was paid out.

A motion was made by Trustee Laura Sudman, seconded by Trustee Efrain Suarez, that the expenses for the Budget Year 2015/2016 be accepted and that the insurance be paid, not to exceed \$4,400. The motion carried by the following vote:

Yes: 5 - Chair Wilbur, Vice Chair Simone, Trustee Suarez, Trustee Sudman and Trustee Weinrub

Absent: 2 - Secretary Chin-Kidd and Trustee Sitman

CHAIR WILBUR asked that the next meeting in late June or early July, include discussion of the disbursement of benefits. He added that the officials were usually elected at the meeting held at this time of year; however, he asked to put that off until the next meeting when the three people were appointed to the Board. All agreed with waiting.

6) OTHER BUSINESS

A. DISCUSSION AND POSSIBLE ACTION - ACTUARY STUDY

CHAIR JIM WILBUR said that he requested that the Attorney contact Chad Lyttle, who the Fund had an agreement with to perform the last Actuary Study, which was a couple of years ago. He said that not all the data was provided to Mr. Lyttle; therefore, he asked the Attorney to see if the pricing was still good.

ATTORNEY MARK W. FLOYD, Mierzwa and Associates P.A., stated that it was in September of 2012, and the price was a fee not to exceed \$8,000.

CHAIR WILBUR said that the Attorney would check with Mr. Lyttle to see if the fee would still be honored. He noted that if the fee was acceptable, he wanted to proceed with having the Actuarial Study done. He explained that the Actuarial Study was important because it reported to the City what was going on so that the City could project unfunded liabilities. He added that it also informed as to how the Fund was doing and whether it needed to be increase or decrease the amount paid out. He noted that it should be done every three years. He said that if the fee changed, another meeting would be needed to accept that new fee.

MARK WEINRUB suggested letting it be within 10 percent, which would be \$8,800.

CHAIR WILBUR said that it might be more than that, because it was quoted three years ago.

MR. WEINRUB felt that it was a long time and it needed to be done.

ATTORNEY FLOYD noted that it was done in 2008, which was 7 years ago.

EFRAIN SUAREZ suggested making it \$9,000, and all agreed.

ATTORNEY FLOYD said that he would negotiate that.

A motion was made by Trustee Weinrub, seconded by Trustee Sudman, to have Attorney Floyd contact Mr. Lyttle to re-engage on the price, not to exceed \$9,000, and move forward with the Actuary Study. The motion carried by the following vote:

Yes: 5 - Chair Wilbur, Vice Chair Simone, Trustee Suarez, Trustee Sudman and Trustee Weinrub

Absent: 2 - Secretary Chin-Kidd and Trustee Sitman

CHAIR WILBUR also requested that Attorney Floyd obtain a date on how long it would take once the data was provided.

VICE CHAIR SIMONE questioned what was paid in 2008, and Chair Wilbur noted that the original Actuary Study was \$11,200; however, neither he nor Attorney Floyd remembered what it cost in 2008.

ATTORNEY FLOYD noted that we received bids the last time, and explained that Foster and Foster bid \$8,000, Freiman Little bid \$9,500 and was the low bid with Freiman Little matched it. and Delaney and Company bid \$12,000. He said that Freiman Little matched the Foster and Foster bid, because he did the work for the Fund before. He said that Mr. Little would have most of the information, which would just need to be updated.

7) SCHEDULE NEXT MEETING

CHAIR JIM WILBUR noted that the check from the City should be received by the end of June.

The next meeting was scheduled for Thursday, June 25, 2015, at 2:30 p.m.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:12 p.m.

Respectfully submitted,

Transcribed by Carol DiLorenzo

Jackie Chin-Kidd, Secretary

Date