

**BATAVIA POLICE PENSION BOARD
MEETING MINUTES
FEBRUARY 8, 2023**

NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Board and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

President Kaluzny called the meeting to order at 8:09 a.m. on 02/08/2023.

Roll Call: Jason Kaluzny, President (In person); Tim O'Brien, Vice President (Zoom); Chris Potthoff, Secretary (Zoom); Rob Knanishu, Trustee (Zoom); Laura Newman, Trustee (In person)

Members Absent: None

Others Present: Jeff Goodloe, PGM (in person); Derek Flessner, Lauterbach & Amen (Zoom); Greg Kiesewetter, Euclid Specialty (Zoom)

APPROVAL OF MEETING MINUTES

Motion: To approve the minutes of the Regular Meeting of 11/09/2022 as presented.
Maker: O'Brien
Second: Newman
Roll Call: Kaluzny – Aye, O'Brien – Aye, Newman – Aye, Knanishu – Aye, Potthoff - Aye.
5 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

INVESTMENT ACTIVITIES

Monthly/Quarterly Reports – IPOPF is supposed to be sending them out to the Board members. Members have not received these reports. The reports are also available on-line. Flessner reported that Lauterbach & Amen (L&A) provide monthly statements as well. Members indicated that they have not been able to pull the State Street monthly reports, which would show what the Board has invested with IPOPF. The authorized agents have not been able to get their logins resolved. L&A has received statements, which show the portfolio began with \$33,843,063 and ended the quarter with \$33,183,368 a decrease of -1.92%. Quarterly and monthly reports of the entire consolidated fund are accessible at IPOPF.com.

Cash Management – The Board received an email from UBS requesting that all funds be transferred from the UBS account over to the Harris Bank account. Goodloe inquired if all the city and employee contributions are now being deposited in the BMO/Harris Bank account and have all the monies from UBS been transferred as well, to close out the UBS account. Flessner reported that account information was provided to the City of Batavia to make the transfers of city/employee contributions, however, to date, L&A has not seen those monies in the BMO account for January. No deposit(s) have been received from UBS in the month of January. There is approximately \$2M+ in the UBS account. Once these monies are transferred, the Board may wish to keep the monies in the BMO account until such time that transfers from State Street are set up.

Motion: To transfer the balance of monies held at UBS to the BMO/Harris Bank Account. Verify that there are no more deposits from the City (contributions) being transferred to the UBS account and they are, in fact, being transferred to the BMO/Harris Bank Account. Shut down UBS account once all monies are transferred.

Maker: Knanishu

Second: Kaluzny

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Potthoff – Aye, Knanishu – Aye. 5 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Newman stated that she would confer with the City to make sure that all employer/employee contributions are deposited in the BMO Harris Bank Account and verify that no more transactions are done with UBS.

A Letter of Authorization will need to be drafted to UBS to transfer the monies to BMO Harris. Flessner requested that the LOA request that the monies be deposited 2 days before the end of the month or that UBS send the normal deposit for payroll this month and then send the remainder the first of next month. The UBS monies are needed to make the benefit payments for February. Monies are required on or before the 15th. UBS already has authorization to transfer a limited amount of money into the BMO Harris account (\$275,000). UBS will need another LOA to transfer the remaining balance.

Discussion was held on Cash Management, keeping a specific amount in the BMO Harris account, setting up reoccurring monthly payouts from State Street to BMO, guidelines in the BMO account on how much money to keep in the account and monies over that transferred for investments, etc. Discussion was held on holding the \$2M from UBS and/or investing with IPOPF, keeping 2 months of funds for benefit payments, etc.

Motion: Pending receipt of the first reoccurring withdrawal from State Street, a minimum of 2 months of expenses shall remain in the BMO Harris account, approximately \$600K. Once funds exceed \$700K, rebalance the account back to \$600K transferring (minimum \$100K) to State Street for reinvesting.

Maker: Newman

Second: Kaluzny

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Potthoff – Aye, Knanishu – Aye. 5 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To set reoccurring monthly withdrawals from State Street to BMO Harris in the amount of \$275K. The reoccurring monthly withdrawals to occur on/or before the 15th of the month beginning March 1, 2023.

Maker: O’Brien

Second: Newman

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Potthoff – Aye, Knanishu – Aye.
5 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Goodloe reported that there was a Collateralization Agreement between BMO Harris and Bank of America. BOA was the third-party custodian that was holding assets that were pledged as security to collateralize the Board’s account. BOA will no longer enter into collateralization agreements and is out at the end of February 2023. It is essential that the BMO account is collateralized as it is only FDIC insured up to \$250,000. The account will maintain a minimum of \$600,000. There’s a new agreement between BMO Harris and Bank of New York Mellon. Goodloe has reviewed the agreement, several other clients have approved it, if the Board agrees, the Board will need to enter into a collateralization agreement with Bank of New York Mellon.

Motion: To approve the updated Collateralization Agreement with BMO Harris and Bank of New York Mellon as presented.

Maker: O’Brien

Second: Newman

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Potthoff – Aye, Knanishu – Aye.
5 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Authorizing Agents – Kaluzny and Potthoff are the current authorizing agents for the Fund. This item will remain on the agenda to take action, if needed.

Benefit pamphlets were briefly discussed. These pamphlets may be very beneficial, especially to new officers transferring, in answering many questions reference transferring their pensions, etc. The cost is minimal. To be discussed in greater detail at the next meeting. Potthoff left the meeting at 8:42 a.m.

OLD BUSINESS

Cyber Security Insurance – Greg Kiesewetter, Cook Castle, gave a brief presentation on Cyber Security Insurance coverage (Coalition Insurance Solutions) and what would be required of the Board to qualify. Estimated cost would be \$2564.00 annually for a \$1M policy. Discussion was held on the City of Batavia’s coverage and whether the Batavia Police Pension Fund is covered under the City’s policy. Newman reported that both the City and the Pension Board could be held liable for any breaches and that the City’s policy only covers the City’s liability, not the Pension Board’s liability. Discussion continued on the Pension Board being a separate public body from the City of Batavia. Newman reported on the new requirements this year to obtain Cyber Security Insurance and what the City has implemented to obtain this insurance. Discussions will be held with the City’s IT Department reference issues that may prevent the Pension Board from obtaining their own Cyber Security Insurance. Table to the next meeting.

It was noted that the next regular meeting is 05/10/2023, which is the same date as the IPPFA Spring Conference. Will look to change this meeting. Alternative dates are 05/03 and 05/17. A meeting change notice will be forthcoming.

Trustee Elections – The Board will be staggering the trustee elections. Kaluzny’s position will be a term of 1-year term and Potthoff’s position will be a 2-year term. After this year’s election, all positions will return to the normal 2-year term. Elections will be held in April with the term beginning May 1.

Motion: To approve the 2023 COLA increases as presented.
Maker: O’Brien
Second: Newman
Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

ACCOUNTANT’S REPORT/PRESENTATION OF BILLS FOR DISBURSEMENT

Flessner gave an overview of the December 2022 Financials as well as the 2023 COLA increases.

Motion: To approve the 2023 COLA increases as presented.
Maker: O’Brien
Second: Newman
Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

Flessner left the meeting at 9:13 a.m.

Motion: To approve the monthly financial reports for the months of September 2022, October 2022, November 2022 and December 2022.
Maker: Kaluzny
Second: Knanishu
Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

Motion: To approve the following invoices as presented: Reimbursement to Trustee O’Brien for mandatory fiduciary training in the amount of \$125 & \$275; Reimbursement to Trustee Kaluzny for mandatory fiduciary training in the amount of \$275; Invoice for Cheryl Shimp Invoice #710060 for transcription services in the amount of \$120; IPPFA Invoice #17 for membership dues in the amount of \$795; and PG Invoice #390 for legal services in the amount of \$342.
Maker: Newman
Second: Kaluzny
Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

Motion: To approve expenses for up to 3 trustees for the IPPFA Spring Training Conference
Maker: Kaluzny
Second: O’Brien

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

APPLICATIONS FOR MEMBERSHIP

Motion: To approve Caleb Saxsma’s application for membership into the Batavia Police Pension Fund as a Tier 2 member effective 12/21/2022; and Peter Rudelich’s application for membership into the Batavia Police Pension Fund as a Tier 2 member effective 12/21/2022.

Maker: Kaluzny

Second: Newman

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

APPLICATIONS FOR BENEFITS

Mercil Disability – Goodloe reported that Scott Mercil is due for his annual examination. The Board sent Sgt. Mercil to an independent specialist last year at a cost of \$3300.00. Discussion was held on alternating between an independent specialist and Mercil’s treating physician. Mercil is currently 45 yoa.

Motion: To approve the annual examination of Scott Mercil with his treating physician reference his disability status.

Maker: O’Brien

Second: Kaluzny

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

Lambert Benefit Adjustment – Sgt. Tom Lambert passed on 08/24/2022. He has a surviving spouse, Vickie. Discussion was held on her Surviving Spouse Pension.

Motion: To approve the adjustment and approve the Surviving Spouse Pension effective 08/25/2022 with an applicable salary of \$76,372 as presented.

Maker: Kaluzny

Second: Newman

Roll Call: Kaluzny – Aye, O’Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

ATTORNEY REPORT

Goodloe reported that the Appellate Court issued its opinion on the consolidation lawsuit and confirmed the trial court’s decision that the law is constitutional. In terms of Article 13 Section 5 of the Pension Protection Clause, it only prevents the legislature from amending statutes that would negatively impact someone’s pension calculation. The Appellate Court ruled that taking assets and moving them from one state created pension system to another does not do anything to negatively

impact someone's pension benefits. On the Takings Clause, the Court ruled that Takings implicates taking private property for public purposes without just compensation. The plaintiffs have no ownership interest in the pension fund assets and only have an interest in the pension that they ultimately receive, so not a violation. The plaintiffs have the option of filing a petition that could lead to an appeal from the Supreme Court, which they may. Unknown if the Supreme Court will grant the petition to appeal.

Masterton vs. the Glenview Police Pension Board, basic facts as follows: An active police officer with more than 10 years of service but less than 20, is divorced with a minor child, walks into roll call, has a heart attack and drops dead. Everyone agreed that the minor child was entitled to 50% of salary attached to rank as a survivors pension. The ex-wife, guardian of the minor child, believed that they should be able to make a claim for a line-of-duty death benefits, which would entitle the minor child to 100% of salary attached to rank. The pension board denied it and the ex-wife sued. The trial court ruled that the ex-wife could make a claim for line-of-duty death benefits on behalf of the minor child and sends it back to the pension board. The pension board obtains all the medical records and forwards same to their independent physicians. The opinion of the physicians was that the heart attack had nothing to do with performing an act of duty, claiming it was a pre-existing condition. Line-of-duty death benefits denied and the ex-wife sues again and the trial court agrees with the pension board's ruling, there is no causation. She appeals to the Appellate Court, which rules that they are not going to get into causation about whether the heart attack resulted from walking into roll call. The pension board had it correct all along. A surviving child cannot make a claim for line-of-duty death benefits under the statute. Only a surviving spouse may make that claim.

NEW BUSINESS

Economic Interest Statements – Economic Interest Statements are due May 1. These statements may be filled out online with the county.

Executive Session – None.

Knanishu inquired if there was an intergovernmental agreement with the Police Pension Fund and the City of Batavia. There is not nor is it required. Knanishu inquired as to the authority to enter into an agreement that provides payments for a pension fund as the State is now controlling the pension fund monies. State Street is the custodian for the consolidated fund. They were hired by the consolidated fund, which was created because of the new State Statute, and has become a new article in the Pension Code. The Board has had BMO Harris Bank as its operating account for a long time to distribute pension benefits and pay expenses of the fund. It was noted that the Batavia Police Pension Board is a legal separate entity from the municipality itself. The Pension Code establishes the establishment of a police pension fund. The Board has the power to make money transfers, making sure that there is enough money to pay the beneficiaries as well as expenses. Newman reported that there is a collective bargaining agreement between the City of Batavia and the employees of the police department that obligates the City to both transfer the employee pension payments and to also make contributions to the pension fund. The legal authority comes from the collective bargaining agreement and from the Pension Code. Article 3 of the Pension

Code is very clear that 9.91% contributions are withheld from salary and is required to be remitted to the local pension fund. From there, the Board still has the legal authority to pay benefits, award benefits, grant pensions, to do everything it did before the consolidation apart from managing the monies. Knanishu inquired if an intergovernmental agreement between the police pension fund and the city needs to exist if there is ever a problem with the State. Discussion continued on who is responsible if the State refuses to pay the benefits, discrepancies, fees, claims of irregularities in the financial operations of IPOPF, city being in violation of the statute if they do not make the designated contributions, etc. Concerns were expressed about how payments will be made with the change to the consolidated fund. It was noted that the statute commands that the local pension fund set up a local bank account as its operating account for the express purpose of paying all benefits and administrative costs. Further the state statute creates the board, the municipality does not. The money that resides in the state fund is still Batavia's money, the new funds that come in as contributions (employer/employee) are the monies that are being moved through the BMO account to the state.

PUBLIC COMMENTS


None.

ADJOURNMENT

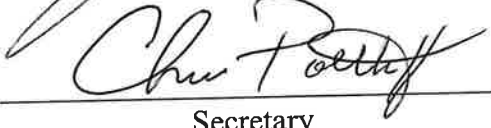
There being no further business a motion was made by President Kaluzny to adjourn the meeting. Seconded by Trustee O'Brien.

Roll Call: Kaluzny – Aye, O'Brien – Aye, Newman – Aye, Knanishu – Aye. 4 Ayes, 0 Nays, 1 Absent. All in favor. Motion carried.

The meeting was adjourned at 9:52 a.m.



President



Secretary