

PENSION BOARD MTG 10-24-06 TRANSCRIPT

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3 Ed Zuercher Items (inaudible) consideration of possible reemployment of retiree. We've all
4 received or have read, had read to us the description of Jack Harris' letter of
5 October 20th to Donna. Are there any questions on that from any members of
6 the board? Gayle (NO), Wendy (NO)? OK
7
8 Stan No
9
10 Ed Zuercher No discussion, uh just would note that this lays out what Chief Harris basically
11 gave us verbally last time in our extended meeting last time, so this, we really
12 had quite an extended conversation last time about this, this just puts that in
13 writing. I would entertain any questions or a motion.
14
15 Ron I had a question, that, is Patty Ward there?
16
17 Ed Zuercher Yes she is
18
19 Ron Patty do you have anything to add to this, any insight or anything?
20
21 Patty Um, no, Ron, I really don't have any...
22
23 Ed Zuercher Hold on, we are going to have to have you join us at the table, just so you guys
24 can be sure to hear. We are getting situated... OK
25
26 Patty Um, Ron, I've thought about this over a period of time and really caught bits and
27 pieces in some very direct conversations with Chief Harris about it and I guess
28 some of the questions that come to my mind, um, sorry we were going to shut
29 the door, really has to do with what kind of path are we heading down with
30 regards to DROP and what the intent of DROP was, so I guess I'm thinking if, if
31 things happen to work out I guess where Jack stays and becomes the Deputy
32 City Manager, um, what does that do to us when we have the next employee,
33 whoever that might be in DROP who doesn't want to go and tries to do
34 something, is probably the most politically correct way I can say it, um, its
35 certainly not a personal issue, um, with the Chief. I like the Chief, but I, I tend to
36 look at things more from a system perspective, what was the intent and where
37 was the program headed, so those are some of the thoughts that were rolling
38 around in my head. I'm not familiar enough with the legal details of DROP,
39 again, you have a general marriage, but in terms of, that's why we have an
40 attorney in here who has looked at that, so, does that help at all.
41
42 Ron Yeah, thanks, I just wanted to know where you were coming from
43
44 Patty Just a concern of who's the next person or what might be the next person who
45 is ready to DROP and for whatever reason wants to stay or we have a need for
46 them to stay, so
47

1 Gayle Starr Patty, it's Gayle Starr, can you give us some more specific example of what
2 might happen, that could be a negative situation.
3

4 Patty Well Gail, Um, well again, it would be any person who is in DROP, you know, for
5 example a commander who is in DROP, but we are utilizing their skills, we think
6 they are a talented person and we want utilize them in a different capacity,
7 then, you know you could apply that to anybody who, a sergeant, a lieutenant,
8 most likely a supervisor I would guess, I'm not picturing, perhaps officers
9 because you know there is probably some general store level of officers but
10 we've had some people who have retired recently as a result of DROP who had
11 become reserves and were back doing some jobs they were doing before they
12 left because they have a particular talent in that area.
13

14 Ed Zuercher This is I guess my thought on that Ron and Gail would be in this case what you
15 have is **a sworn position who would be assigned to a civilian position with**
16 **duties expanded beyond the current**, so I'm not sure where you would find for
17 a commander or a lieutenant or an officer a place where they would go **that's a**
18 **civilian position with duties that are different and expanded** or if you did that
19 for example if a police officer retired from the system and then became a
20 neighborhood services inspector which is a civilian position **in a different** and
21 we've had that happen, back when we had some neighborhood services
22 inspectors who are retired police officers. I think there is a way that works.
23

24 Gayle I'm not sure that's the problem...

25

26 Ron Let me just say if I can for a second. This law, the way it's written, it's
27 unfortunate that this law was even written to begin with. It's a kneejerk
28 reaction by the legislature to address one person as a result of the unpopularity
29 of that person or his boss, so, and that's sad because now the laws have been
30 modified a little bit, is creating a problem for us because **the law does not**
31 **preclude Jack from coming back and being a full duty sworn police officer of any**
32 **rank other than chief** the way it reads right now. He could be an assistant chief
33 the day after he leaves, he can be a commander, he can be any rank, and so
34 what we're doing is saying, or Frank's saying, not we; we are just the board,
35 what Frank's doing is saying you know we've got a great Chief here. The city
36 council likes him, the mayor likes him, I like him, we'd like to **somehow keep him**
37 **on, keep things status quo** and then the way he wants to do that is give Jack
38 **more and quite a bit more expanded duties**, so he going to have a lot more
39 duties than he already has and he already told us that several of his duties, I
40 don't know how many, and we wont know until Jack gives that situation are
41 (inaudible) **he can't certainly do the full job described as the job description of a**
42 **police chief today**, or to the future that he is doing today (inaudible) **his duties**
43 **are going to change, his title is going to change, his salary is going to change,**
44 **everything's changing**. This is not the same situation that the law was created
45 for which was Dave Hendershott who came out of one job one day retired and
46 came right back to the identical job and that's why I don't have a problem with
47 this. If Frank wants to keep him, who am I to stand in the way. And I think all
48 the boards, all the boards duty necessary give permission to Jack but we are

1 giving the reassurance that as he told us, although the scenario comes to
2 fruition as he described it to us would we start an action against him with the
3 fund manager to reduce or stop his pension or lose DROP locked up. And that's,
4 I think that's what we are here for today, to say, you know we aren't going to do
5 that as a board or we are going to do that as a board
6
7 Ed Zuercher Is that a motion Ron?
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9 Ron No,..., I would make a motion if there's no more discussion
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11 Ed Zuercher Ok, I will ask for further discussion or questions. Stan? Gayle?
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13 Gayle I think that this should be addressed on a case by case basis. I don't think that
14 there's any way that we can come up with anything that would be all inclusive,
15 so I would think that our, that our attitudes have to be a case by case basis
16 because sometimes there are going to be special, you know people with special
17 expertise and something will come up and we will need that expertise for and I
18 think we will need to be able to do, adapt to that
19
20 Ed Zuercher Yeah. This is Ed. Yeah, I agree with you and I think you make a great point
21 which is why we actually asked Chief Harris to present something to us in
22 writing, because I think we are going to need to examine the circumstances of
23 each proposal as they come up because I don't know how we could make a
24 blanket proposal not knowing what types of jobs people would be proposing to
25 go into. So, I think that's a great point. Any other thoughts or comments... I
26 think Ron framed it correctly, this is not a referendum on whether we like or
27 don't like the chief or giving permission or not, it's about whether; indicating
28 whether this board would feel there would be a cause of action against the
29 chief. I would just ask David (attorney) what is the, what's the process or the
30 appeal or how is this, how is this structured with, between our responsibilities,
31 is it the fund managers responsibilities, appeal rights and those sorts of things,
32 could you just describe that for us please.
33
34 Attorney I believe that this local board, because its part of the implementation of the
35 overall system has the right to make an initial determination on this issue as to
36 whether the employment that is presented here is going to be suspendable
37 upon the vernacular (inaudible) private sector. Um, having said that, whatever
38 the determination is under the statute that there would appeal by its
39 reconsideration rights in the individual applicant that's affected by the
40 determination and oversight (inaudible) authority from the manager to criticize
41 what the local board has done. The statute doesn't give any broader rights than
42 that. Now whether there is some individual would have the ability from a
43 taxpayer perspective or something like that, that's not an issue I've looked into
44 as to whether it could be criticized legally from other perspectives. Facially the
45 statute would be the applicant and the fund manager, those appeal rights
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47 Ed Zuercher And is there a time frame on those, uh the request for reconsideration, is it 30
48 day or 60? There's a time frame on the statute, limited time period

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2 Attorney It's, I believe its 60 days. And then the final determination there is a 30 day
3 period if I recall it correctly to get into the superior court to have a court try to
4 overturn the determination. Failing either of those things then the
5 determination of the board becomes the final determination
6
7 Ed Zuercher Ok.. Alright, any further discussion or questions
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9 Ron I will add one thing if I may before I make a motion and that is that Jack Harris
10 and I went over to the fund manager's office and met with Jim Hacking and the
11 fund managers counsel which is Mark Lieberman we have laid the same
12 scenario out specifically as Jack has laid it out both verbally and then in writing.
13 And if they feel more comfortable that's why I'm adding this is the fact that they
14 said they, in fact you went two scenarios, one was chief gets reappointed under
15 his situation and the other was is the chief does not get reappointed and both
16 of those James and Mark made the comment that obviously if they make a new
17 chief the felt very comfortable with that and if they didn't they still felt
18 comfortable with it based upon the complexity of the new job description and
19 all those things, so, they're not uncomfortable with it at all so I can assure you
20 that whatever we decide, and then they said, we can't give you another Jack,
21 you need to take this to the local board and I told him that's true. But they
22 aren't going to have a problem, whichever, I mean they aren't going to
23 challenge us either way for that matter. so for the reason I would make a
24 motion that based upon all of the things that Chief Harris told us on the
25 upcoming job offer that it comes down just like that I see that it does not violate
26 the law, such that we have, put the fund manager on notice that we felt we had
27 somebody in constant with that portion of the law.
28
29 Ed Zuercher And not only did he tell us, but it was in writing...right?
30
31 Ron Correct
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33 Ed Zuercher I have motion, is there a second? As chair, I'm sorry go ahead
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35 Wendy I'll second, but let me make sure I understand the motion. Are you saying it's
36 ok?
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38 Ron I'm saying it's ok
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40 Wendy Ok, yes I'll second it
41
42 Ed Zuercher OK
43
44 Gayle Was that Wendy?
45
46 Ed Zuercher That was Wendy?
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48 Wendy Yes

1
2 Gayle This is Gayle, I have a comment.
3
4 Ed Zuercher OK
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6 Gayle I will be voting based also on the assurance that I've been given in discussions
7 with Frank Fairbanks, city manager that the same title police chief will not be
8 used in any way shape or form
9
10 Ed Zuercher Ok
11
12 Gayle As a job description, title, anything...
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14 Ed Zuercher I would just, I would clarify that with my understanding, is that the position
15 would be a deputy city manager position. It may be have a working title of
16 something in the nature of director of police and homeland security, I'm not
17 sure exactly what it is, but my understanding is that the city formally will not be
18 using the title of police chief. Of course there's no guarantee as to what the
19 public or the media will be calling this person. Is that what you mean Gayle?
20
21 Gayle Yes
22
23 Ed Zuercher Ok. Any further comment... discussion... I have a motion and a second; uh I
24 would just also indicate that this is dealing with someone becoming a deputy
25 city manager. All those in favor of the motion, say aye....opposed
26
27 Stan Aye
28
29 Ed Zuercher The motion passes for one. Thank you all.