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PENSION BOARD FOR THE BOROUGH OF DUNMORE

HELD:

Tuesday, September 19th, 2023

TIME:

6:00 P.M.

LOCATION:

DUNMORE COMMUNITY CENTER  
1414 Monroe Avenue  
Dunmore, Pennsylvania

P E N S I O N B O A R D S M E M B E R S :

- VINCE AMICO, President
- MAX CONWAY, MAYOR, Vice President
- WILLIAM BONAVOGLIA
- GREG WOLFF
- MARK BURTON
- GREG KAMLA
- LAWRENCE DURKIN, ESQ., SOLICITOR

MARIA McCOOL, RPR  
OFFICIAL COURT REPORTER

1                   ATTY. DURKIN: So we're here for the  
2                   September 19th, 2023 meeting of the Dunmore  
3                   Pension Fund if we can start with a roll call?  
4                   Max?

5                   MAYOR CONWAY: Here.

6                   ATTY. DURKIN: Just say your name.

7                   MAYOR CONWAY: Max Conway, here.

8                   MR. AMICO: Vince Amico.

9                   MR. WOLFF: Greg Wolff.

10                  MR. COLO: Ralph Colo.

11                  MR. BURTON: Mark Burton.

12                  MR. BONAVOGLIA: Bill Bonavoglia.

13                  ATTY. DURKIN: Larry Durkin. The  
14                  first item is we have the transcript of the  
15                  meeting from our -- from the June 13th, 2023  
16                  meeting, asking for a motion to approve the  
17                  minutes from that meeting.

18                  MR. WOLFF: I'll make that motion.

19                  MR. BONAVOGLIA: I'll second it.

20                  ATTY. DURKIN: On the question? All  
21                  in favor?

22                  ALL MEMBERS: Aye.

23                  ATTY. DURKIN: Old Business, I'm not  
24                  aware of any. New Business -- does anybody  
25                  else have any Old Business?

1                   New Business, Ralph, do you want to  
2                   give us an update?

3                   MR. COLO: Sure. First, September  
4                   4th we get an e-mail from Joe Duda regarding  
5                   the MMO for 2024. Good news for the Borough,  
6                   after speaking with Joe, the MMO payment total  
7                   is going to be close to \$100,000 less than what  
8                   it is now per year.

9                   So that I think is really positive  
10                  for the Borough. Year-to-date numbers  
11                  currently we're up 6 percent, 6.05 year to  
12                  date. We're doing this with an allocation of  
13                  less than 50 percent in equities. We are still  
14                  very heavy deep in cash of 15 percent.

15                  We think that that's an appropriate  
16                  place to be. Of course, you know, still very  
17                  nervous about the markets in the next quarter  
18                  or two. We think that there will be some  
19                  substantial fluctuations. What we've seen  
20                  recently is 10 year treasury hitting levels we  
21                  have not seen since 2007.

22                  That's typically not such a great  
23                  sign for the markets. We're also seeing oil  
24                  prices increase over the last month which would  
25                  be -- lead to an increase of cost in goods. So

1           again, we're very skeptical about earnings for  
2           the next quarter or two.

3                       We like our allocation. If and when  
4           we think that we should deploy some more of  
5           that cash, we'll, of course, have that  
6           discussion at a future meeting. That's really  
7           all I had.

8                       ATTY. DURKIN: Did you say why the  
9           MMO was down?

10                      MR. COLO: Two reasons, performance  
11           which I'm very proud of. You know, that is  
12           really a main factor in why the MMO would be  
13           less.

14                      ATTY. DURKIN: Okay. In other New  
15           Business, Greg I understand we have a request  
16           from Ben Dominick.

17                      MR. WOLFF: Retired firefighter Ben  
18           Dominick, he reached out to me a few months ago  
19           stating that he became aware that other  
20           firefighters that had worked after him or at  
21           the same time received that COLA benefit from  
22           that decision that they had -- the firefighters  
23           decision through the courts there.

24                      So he requested for me to look into  
25           it. I spoke with Attorney Durkin. And that's

1           pretty much where we're at.

2                    ATTY. DURKIN: Okay. So I looked at  
3           it. And this is the Arnone and Bradley case  
4           which was decided by the Commonwealth Court on  
5           March 6 of 2020. And we've had a couple of  
6           questions under this case. I think the last  
7           one was Robert Dee, I'm pretty sure.

8                    And basically my analysis then is  
9           the same as it is now, which is under the  
10          Commonwealth Court opinion, you had to be  
11          vested by December 7th of 2000 in order to  
12          qualify for the COLA benefit that was awarded  
13          in that case.

14                   The Borough has a 12-year vesting  
15          requirement, which means you have to have been  
16          employed since December 7th of 1988. If you  
17          were employed prior to that date, it's my  
18          opinion you fall under that case. So based  
19          on -- and it's my understanding, Greg, he was  
20          employed before that date?

21                   MR. WOLFF: Yes.

22                   ATTY. DURKIN: All right. So based  
23          on that, it's my opinion that he does qualify  
24          for the COLA benefit that is contained in that  
25          case. What was he specifically asking for, was

1           it prospectively, like, going forward to get  
2           it?

3                   MR. WOLFF: He didn't get into  
4           specifics about it. But I would assume that he  
5           would request that -- along the lines of what  
6           Dee -- I mean, they all talk so -- along the  
7           lines of what Dee received because he was  
8           retroactive, I believe.

9                   ATTY. DURKIN: If this is his first  
10          request for this then the most in my opinion  
11          that he could retroactively get if he's  
12          requesting it, is it four years from today  
13          because that's the statute of limitations for a  
14          breach of contract action.

15                   So that's the most that anyone could  
16          get as of, you know, a current request. And  
17          then he would be entitled to it going forward  
18          on the same basis as anybody else. So, you  
19          know, if the Board were going to consider a  
20          motion from -- based on the information I have,  
21          I think he does qualify for it and, you know,  
22          within four years of the date of his --  
23          retroactively four years to the date of his  
24          request is the most that I would recommend  
25          considering.

1 MR. WOLFF: Okay. So you would need  
2 a motion.

3 ATTY. DURKIN: I think the Board  
4 would need a motion. We're going to have to  
5 send this to Joe Duda. You might want to  
6 consider doing -- make a motion to approve his  
7 COLA benefit for him effective from four years  
8 to the date of whatever the date of his request  
9 is.

10 And then if it's approved, I'll send  
11 Joe a letter indicating that it has been  
12 approved and the rationale for its approval and  
13 ask him, you know, to generate the numbers. I  
14 think that's what we ended up doing with Dee.  
15 So that would be the motion to approve it and  
16 then authorize me to send a letter instructing  
17 that it be paid.

18 MR. WOLFF: I'll make a motion then.

19 MAYOR CONWAY: Can I ask a question?  
20 How much are we talking about?

21 ATTY. DURKIN: I think the  
22 retroactive payment to Dee was in the range of  
23 \$6,000, I think. I'm not 100 percent. I'm not  
24 100 percent on the calculation. It's --  
25 Dunmore's COLA is actually based on a CPI

1 change.

2 You know, so I think over the last  
3 four years it's probably going to be pretty --  
4 the first couple years are going to be low.  
5 The last year and a half probably higher, you  
6 know, just based on -- but what the actual  
7 calculation is I'm not 100 percent. Joe would  
8 have to do that.

9 But I would think it would be in the  
10 range what Dee's was. And I'm reasonably sure  
11 that's what Dee's was. I could get you the  
12 actual number.

13 MAYOR CONWAY: I'm just confused on  
14 what this is to be honest with you.

15 ATTY. DURKIN: It's a long story.  
16 It's a very long story which I came in the tail  
17 end of. It's not a story that I like looking  
18 at. But there was a fight over whether certain  
19 firefighters were entitled to COLAs under prior  
20 agreements.

21 It went on for a long time. And  
22 ultimately the Commonwealth Court ruled that  
23 they were, you know, within a certain window.  
24 And it went from an arbitration to Common Pleas  
25 to the Commonwealth Court and then zigzagged



1           like the whole way up.

2                       So it's several boxes, you know, of  
3           stuff in my office which -- my summary of it.  
4           I'm quite confident in my summary of it. But  
5           the rest of it -- that's why -- and there were  
6           only so many named plaintiffs in the case. I  
7           forget how many there were. I know Arnone was  
8           one. Bradley was another one. Wisniewski was  
9           another one. He didn't get it.

10                      And the -- so there was like a --  
11           the Commonwealth Court picked a line, you know,  
12           you have to be vested by 12/7/2000, which means  
13           you had to be hired by that date.

14                      MAYOR CONWAY: Right.

15                      ATTY. DURKIN: But the rationale  
16           applies to anybody else whether or not, you  
17           know, they were a Plaintiff. I thought we had  
18           covered this before but these are still popping  
19           up.

20                      MAYOR CONWAY: Is this different  
21           than the one we did last meeting where we paid  
22           somebody last meeting?

23                      MR. WOLFF: Yes, that was Murphy.  
24           That was his contributions.

25                      ATTY. DURKIN: Oh, yeah, that was

1 just a return of contributions. That was his  
2 money.

3 MAYOR CONWAY: And this guy the last  
4 guy?

5 ATTY. DURKIN: I don't know. I  
6 don't know what the universe is, like, that's  
7 probably -- I thought it was. I thought we had  
8 addressed this a while ago but apparently not.  
9 But the -- but he appears to qualify.

10 MR. AMICO: I'll second the motion.

11 ATTY. DURKIN: On the question? Any  
12 other questions on it? All in favor?

13 ALL MEMBERS: Aye.

14 MR. AMICO: Okay. Do we have any  
15 applications for pension?

16 MR. WOLFF: No.

17 ATTY. DURKIN: Public comment?  
18 Questions?

19 MR. JORDAN: Yeah, we have  
20 questions. I actually spoke on -- I don't know  
21 if it was the last meeting or the meeting  
22 before about retiring early. It was my  
23 understanding that if someone retired from the  
24 police department they would get immediate  
25 pension even though it would be at a reduced

1 rate. And after speaking to Greg the last few  
2 weeks, it turns out that might not be the case.

3 ATTY. DURKIN: So Greg asked me to  
4 take a look at that, and I did. And the issue  
5 is that under Act 600 which applies here and it  
6 applies to the Borough, there's a section of it  
7 which addresses a scenario where a borough has  
8 a vested benefit.

9 And the Borough does have a vested  
10 benefit. You don't have to -- it's a 12-year  
11 benefit similar to what we were just talking  
12 about -- 12 year vesting that we were talking  
13 about with the firefighter raises.

14 So the Borough has a vested benefit  
15 also for the police, also at 12 years. And it  
16 also has a requirement of it's 55 for police, I  
17 believe. So under Act 600, there's a section  
18 that says if you -- if the borough does have a  
19 vested benefit, you can get that -- you could  
20 retire early.

21 You know, you could retire before  
22 you are 55 before you have hit what's called  
23 your superannuation retirement date. And that  
24 means you have 25/55 but you don't get paid  
25 until you meet both criteria. You don't get

1           paid until you hit 55.

2                   MR. JORDAN: And what is this in?

3                   ATTY. DURKIN: It's in Act 600.

4                   MR. JORDAN: Okay, under Act 600  
5           there is also sections where there is a section  
6           where you could leave in 20 years at age 50.  
7           And I believe there is also a section 20 years  
8           and --

9                   ATTY. DURKIN: But the Borough  
10          ordinance has -- the vested benefit is in the  
11          Borough ordinance. That's the starting point  
12          of where -- where the Borough has authorized a  
13          vested benefit which other departments don't  
14          have. Like Scranton, for example, you don't  
15          vest until you hit 25 and 55.

16                   So you do vest here and you could  
17          leave. And let's say you vested at 13 years  
18          and you leave and you're age 50, you will get,  
19          you know, the fraction of, you know, 13/25th of  
20          your pension. But you won't get it until you  
21          are 55.

22                   So there isn't an early retirement  
23          benefit under the Borough ordinance. But there  
24          is a vested benefit. And when there is a  
25          vested benefit under Act 600, you have to hit

1 both before you get paid.

2 MR. JORDAN: Okay. Two questions,  
3 the Borough ordinance, is there a way I could  
4 get a copy of that?

5 ATTY. DURKIN: Yeah.

6 MR. JORDAN: And secondly, what  
7 happens contractually because right now we're  
8 in arbitration. What happens if we do get the  
9 benefit under Act 600 which would be 20 years  
10 and age 50, so that would supersede the Borough  
11 ordinance, correct?

12 ATTY. DURKIN: I'd need to see it.  
13 I will say that if the Borough pension plan is  
14 modified by an arbitrator or by agreement,  
15 however the Borough pension plan is modified,  
16 there would have to be a cost study which says  
17 that the Borough pension plan is actuarially  
18 sound with -- currently and would continue to  
19 be actuarially sound with the modification.

20 And if that doesn't -- and that's  
21 significant because unlike other laws, an  
22 arbitrator's decision will not trump Act 205,  
23 nor will an agreement with the Borough trump  
24 that requirement under Act 205. So there has  
25 to be -- any modification to the Borough

1 pension plan has to include a cost study that  
2 has at least those two elements.

3 There's other elements that are  
4 required in it but at least those two. It's  
5 currently actuarially sound and it will be  
6 actuarially sound after the change. And that  
7 is really I think the most that I could say  
8 about it because that's the one that applies to  
9 the pension fund.

10 You know, you guys have your lawyer  
11 and the Borough has their lawyer for the, you  
12 know, the arbitration. So I don't really want  
13 to get in the middle of that.

14 MR. JORDAN: No, I understand.

15 ATTY. DURKIN: But in terms of  
16 pension fund, any change -- my opinion to the  
17 pension board would be even if the arbitrator  
18 award -- if that isn't satisfied it can't be  
19 paid.

20 MR. JORDAN: Is there going to be an  
21 actuary study done? You know, under the  
22 contract also there was going to be possibly a  
23 DROP Program implemented which would affect --

24 ATTY. DURKIN: The same issue. That  
25 also is a modification. That definitely is a

1 modification of the --

2 MR. JORDAN: Because there was a  
3 DROP awarded in 2008. It just hadn't been  
4 implemented yet. So hopefully after this  
5 contract it may be.

6 ATTY. DURKIN: Yeah, any  
7 modification -- from the pension fund's  
8 perspective, that's really the one thing that  
9 matters in terms of the labor relations, you  
10 know, with the Borough. It's not my place to  
11 get in the middle of that.

12 But any modification to the plan has  
13 to include that. And there's been a fair  
14 amount of case law on that topic.

15 MR. JORDAN: Okay. And do you know  
16 if the Borough is going to do a study? Do you  
17 know if there's one --

18 ATTY. DURKIN: I don't have any  
19 knowledge. I know from you and that's about  
20 it. I know now more about the arbitration  
21 process than when I walked in here.

22 MR. JORDAN: All right. Thank you.

23 MS. HALLINAN: I have a quick  
24 question about the procedure. So I kind of  
25 fall into his question a little bit. I have

1 the age. I'm over 55. I have 21 years of  
2 service. So my set in stone date is June of  
3 2028. I would like to leave in '25. Now I  
4 realize I can't because I can't draw an income.

5 If I chose to leave anyway in 2025,  
6 how would I find out prior to notifying the  
7 Borough that this is my intention to go, what  
8 my anticipated payment would be, like, how long  
9 in advance --

10 ATTY. DURKIN: This seems to be,  
11 like, a recurring issue in Dunmore. But your  
12 requirement is based on your salary. And I  
13 forget the exact calculation for the Borough.

14 MR. JORDAN: It's the final three  
15 years.

16 ATTY. DURKIN: So you take your  
17 final three years and it's 50 percent of your  
18 salary. And I don't know, does it include  
19 longevity or is it just salary?

20 MR. JORDAN: It does. It includes  
21 overtime, salary, all of that stuff.

22 ATTY. DURKIN: So whatever the  
23 elements are, overtime sounds -- whatever the  
24 elements are in your calculation, I mean, you  
25 should have a pretty good idea sitting here.



1           So if you left today and, you know, you -- how  
2           many years do you have?

3                   MS. HALLINAN: Twenty-one.

4                   ATTY. DURKIN: So you have 21/25ths  
5           of your pension times 50 percent of whatever  
6           the calculation is. That is basically what  
7           your number is.

8                   MR. JORDAN: And basically it's 2  
9           percent a year.

10                  MS. HALLINAN: Okay. I thought  
11           someone else had said once it goes to an  
12           actuary it goes down to, like, in the high 30s.  
13           I didn't understand how that worked.

14                  ATTY. DURKIN: That part I can't --  
15           I'm not quite sure what they're doing. That's  
16           the -- right, Ralph, or am I missing something?

17                  MR. COLO: That's basically it, yep.  
18           You've had Joe Duda run calculations. But I  
19           think the difficulty that happens is from time  
20           to time different people want them run. And  
21           it's a cost to the Borough to have those  
22           calculations done.

23                  MS. HALLINAN: Right.

24                  ATTY. DURKIN: Yeah, I mean,  
25           ultimately though you should have a pretty good

1           idea of what it is just based on what you are  
2           earning now because that is how it's  
3           calculated. And then if you left early before  
4           you have the full 25, it's that fraction, you  
5           know, times, you know, the --

6                   MAYOR CONWAY: Can they put together  
7           a sheet that we could just hand out so people  
8           have an understanding of what --

9                   MS. HALLINAN: I'm okay doing it. I  
10          could probably figure it out.

11                   MAYOR CONWAY: I just mean so people  
12          know exactly what the calculations are.

13                   MR. COLO: We actually just sent  
14          out the calculation for everyone.

15                   MR. WOLFF: They did, yep. Duda  
16          put together -- I forget the name of the  
17          actual --

18                   MR. COLO: Typically on an annual  
19          basis or every two years, those calculations  
20          are run for every participant in the plan so  
21          they know at that level what the payment would  
22          be. And I think as to what Larry said and what  
23          Bill said, if it was 21 years then it would be  
24          21/25ths of whatever you --

25                   ATTY. DURKIN: Of whatever that

1 number is.

2 MR. COLO: If there's a question  
3 with the math of it I'm happy to help.

4 MR. JORDAN: I have one more  
5 question, I promise. So, you know, our  
6 retirement is calculated by the last three  
7 years of service. So it would be last full  
8 three years, correct? If somebody left half  
9 way through the year --

10 MR. WOLFF: Correct. It's date to  
11 date.

12 ATTY. DURKIN: If you retire today,  
13 it would be three years from --

14 MR. JORDAN: Full years.

15 MR. WOLFF: So September to  
16 September to September.

17 MR. JORDAN: Okay. Thank you.

18 MR. BONA VOGLIA: All right. So I  
19 want to retire and do the DROP if we get it.  
20 So I have to put in 90 days. We don't get the  
21 award back until just say December, is there  
22 any chance we could waive that 90 days?

23 MR. WOLFF: Where does it say the 90  
24 days? Is that in your contract or in the --

25 MR. JORDAN: No, that was pension

1 settlement, the buyback.

2 MR. WOLFF: I don't know that that  
3 would be a question here. So in the buyback  
4 they received an award through arbitration  
5 saying they have to give 90 days. But I don't  
6 know that is a question we can answer right  
7 now. I'd have to talk to Larry more about  
8 that. I know what you are saying.

9 MR. BONAVOGLIA: Do you know what I  
10 mean because I have to put in October, but if  
11 we don't get it, just say I want to stay  
12 another year, then I have to say, well, is  
13 there going to be a problem -- oh, we didn't  
14 get it; so now I'm going to work another year.  
15 I don't want to say I'm retiring and then not  
16 retire.

17 MR. WOLFF: Off the top of my head  
18 I'm thinking it's more of a Borough question.  
19 I know what -- I think that is a Borough award  
20 with the unions. That's my best guess. We  
21 have to -- I could give Larry that.

22 ATTY. DURKIN: I don't -- I'm not  
23 really sure what we're talking about. So I  
24 can't --

25 MR. WOLFF: I would give that to him

1           and he could say, yes, this has nothing to do  
2           with us or, yes, it does have something to do  
3           with us or if it's just a Borough question  
4           then.

5                         But I'll pass it on so you could  
6           take a look and decide if it has something to  
7           do with the pension. It does. I get what  
8           you're saying. And just to make mention,  
9           replacing John Malecki for the fire is Greg  
10          Kamla. Did you get his spelling.

11                        MR. KAMLA: K-A-M-L-A.

12                        ATTY. DURKIN: Anything else?

13                        Motion to adjourn?

14                        MR. AMICO: I'll make a motion.

15                        MR. BURTON: Second.

16                        ATTY. DURKIN: Anybody opposed? No.

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C E R T I F I C A T E

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2  
3 I hereby certify that the proceedings and  
4 evidence are contained fully and accurately in the  
5 notes taken by me of the above-cause and that this copy  
6 is a correct transcript of the same to the best of my  
7 ability.

8  
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10 \_\_\_\_\_  
11 Maria McCool, RPR  
12 Official Court Reporter  
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