

OFR94008

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: MINUTES

CITY DEPARTMENT: ADMINISTRATIVE SERVICES

YEAR: 1994

FIRE PENSION BOARD  
AUGUST 8, 1994

A meeting of the "Old Hire" Fire Pension Board was called to order at 9:05 a.m. Members present were Tim Bevan, Mike Petersen, Glenn Crespin, RT Mantlo, Ron Lappi and Claudia Hazelhurst. Retired Captains Gene Thye and Wayne Marks were also in attendance.

**Minutes**

Glenn Crespin moved the minutes of the June 6, 1994 meeting be approved as submitted. Claudia Hazelhurst seconded, and the motion carried.

**New Business**

Tim Bevan asked that the Board start with new business so the two retired captains who were in attendance would not be further detained. Retired Captain Gene Thye presented a letter to the Board dated August 2, 1994 stating that he felt he was being discriminated against because retired captains Jim Geary and Cecil Campbell were receiving a higher pension than he and other retired captains. It was explained that in 1990 there had been lengthy discussions about Campbell and Geary and the Board approved their request to have their rank escalation tied to AFO-Shift Commander because that was the function they were performing prior to retirement even though their titles had not changed. Ron Lappi stated that the title at which one retired was not the issue in determining rank escalation but rather the duties employees actually performed prior to their retirement. Thye and Marks argued that state statute states that rank escalation is based upon the rank from which one retires and that rank means title. Hazelhurst reiterated that it is the Board's opinion that rank is broader than title. Bevan said the governing Board had the power to interpret rank and this Board interpreted it as job duties not title.

Marks asked how the captain's pension amount was determined. Hazelhurst explained that in 1990 the Board arrived at a formula for establishing rank escalation for captains since that position no longer existed. The formula is 10.37% below an AFO which represented the difference in pay between Captain and Battalion Chief (AFO) at the time both positions were abolished and duties reorganized. Marks asked that the retirees be informed of changes. It was agreed that after pensions are approved by the Board each year, a newsletter would be sent by the Board through FPPA to all pensioners. Ron Lappi agreed there had been an error on the Board's part by not informing the remaining three captains (Marks, Thye, O'Key) that in 1990 the change was made. Mike Petersen suggested that a letter also be sent to retired Battalion Chiefs to inform them of the change in Wes Painter's pension.

Bevan asked the Board to have one vote on this issue so as to cover any similar future requests from other retired captains. Ron Lappi moved that the written request by Gene Thye dated August 2, 1994 to have his and other retired Captains pensions increased and tied to the rank of AFO-Shift Commander be denied and written notice be sent to Gene Thye, Wayne Marks and Kenneth O'Key of this decision. Claudia Hazelhurst seconded and the motion carried. Claudia said she will notify the captains of the decision.

#### **Old Business**

Discussion was had about the supplemental actuarial study which included cost for the three amendments being considered by the Board. However, the cost of the options were not broken out separately, so Claudia informed the Board that she has asked Amy Timmons of FPPA to provide costs for each individual amendment. Ron Lappi said that since these proposed amendments carry additional costs to the plan, the City would have to pick up any additional cost and Council would have to approve it. Bevan reviewed the options with RT Mantlo and asked what he thought council would do. Mantlo said this is not a good time given the fact that the Plan already has a significant unfunded liability and would prefer not to ask Council at this time. Tim Bevan did say that the option of retiring at 20 years of service and receiving no pension until age 50 would be no cost to the city. Claudia suggested the Board delay any decision until the new costs breakdowns are done. It was agreed to table this decision.

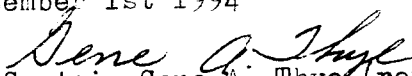
The meeting adjourned at 10:35 a.m.

August 2 1994

Tim Bevin, Chairman  
Firemans Pension Board.

Up until the death of Cecil (Jack) Campbell, I was under the impression that He and Jim Geary were upgraded to the rank of Shift Commander, I had no qualms with thier up graded position. It turns out they were both retired as Captains, but with a higher rate of pay than previous retired Fire Captains. The Pension Law does not have a Captain "A" and a Captain "B" The Law plainly states  $\frac{1}{2}$  of the last months salery plus  $\frac{1}{2}$  of any increases in that rank. Seems to me that there are now three (3) retired Captains. Kenneth O'Key, Gene Thye and Wayne Marks and one (1) that is deceased, William ( Bill) Moore. These retired Captains are being discriminated against. The Fire Chief has the power to make changes in the duties of any fireman. But He does not have the power to change the fire pension laws. If these two (2) Captains were doing Shift Commanders work they should have been promoted to Shift Commanders.

I am not asking for anything that is not justly mine. I would at this time settle for an increase in my pensior upgraded to the rank held by the latest retired Captains effective September 1st 1994

  
Captain Gene A. Thye (retired)  
P.O. Box 3962  
Grand Junction, Co 81502  
303-242-0522

Grand Junction, Colorado  
August 3, 1994

TO WHOM IT MAY CONCERN:

On August 2, 1994 I spoke with Mr. Thye at which time he read a letter over the telephone which he is going to present to the Pension Board. This letter concerns a change in the pension for three men who are retired captains of the Grand Junction Fire Department.

I wish to state that I do concur with the letter as it was read to me.

*Kenneth H. O'Key*

Kenneth H. O'Key, Captain  
Grand Junction Fire Department -  
Retired

June 6, 1994

Ms. Claudia Hazelhurst  
c/o Personnel Department  
City of Grand Junction  
250 North 5th Street  
Grand Junction, Colorado 81501

Dear Ms. Hazelhurst:

This is in response to your telephone call of June 3, 1994 concerning the possible amendment of the City of Grand Junction's "old hire" fire pension plan.

The procedure for amendment of old hire pension plans is set forth in C.R.S., 31-30-1005(6) (1986 Repl. Vol. 12B) (copy enclosed). The statute authorizes the FPPA Board of Directors to approve amendments to old hire plans if they are requested by the employer, approved by 65% of the active members of the plan, and will maintain or enhance the actuarial soundness of the plan fund.

In light of the above, prior to the approval of an old hire plan amendment, the FPPA Board requires the following information:

1. A certified copy of a resolution or ordinance adopted by the employer's governing body, setting forth the exact language of the proposed amendment and the employer's approval of such an amendment. If the amendment will increase the actuarial cost of the plan, the resolution or ordinance should set forth how the increased cost will be funded.
2. A letter from the individual responsible for conducting an election of the active members of the plan with respect to the proposed amendment, certifying the results of the election.
3. A letter from the plan's actuary giving his/her opinion as to whether the proposed amendment will maintain or enhance the actuarial soundness of the plan fund.
4. A letter from the employer's attorney setting forth his/her opinion that adoption of the proposed amendment is not prohibited by Amendment One (the TABOR Amendment), or that Amendment One does not apply to the adoption of the proposed amendment.

Although the last requirement is not set forth in the statute, the FPPA Board believes it is necessary in light of the subsequent adoption of Amendment One.

# FPPA

Ms. Claudia Hazelhurst

June 6, 1994

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If you have any questions concerning the amendment procedure for old hire plans, or need additional information, please feel free to call me.

Sincerely,



William Morris  
General Counsel

WM:nel

Enclosure

cc: Ms. Ruth T. Sieler, Executive Director  
Ms. Amy Timmons, Manager of Association Services

(3) Under the direction of the board, each employer, including employers not covered by or specifically exempted from this part 10 in accordance with the provisions of section 31-30-1003 (2), shall furnish such information and shall keep such records as the board may require for the discharge of its duties.

(4) (a) The board shall provide for and determine the cost of a statewide accidental death and disability insurance policy to cover all volunteers serving in volunteer or paid and volunteer fire departments, the insurance to be applicable only when serving as a volunteer fireman. The policy shall be paid for as provided in section 31-30-1014 from proceeds of the tax imposed by section 10-3-209, C.R.S.

(b) The board shall set the amount of coverage to be provided for each volunteer, take competitive bids for the policy from insurers, and make such rules and regulations as may be necessary to provide for the policy.

(c) The insurer shall have sole power to determine disability for volunteer firemen under the policy provided by this subsection (4).

(d) Local boards may provide accidental death and disability insurance coverage for their volunteer firemen in addition to, but not in lieu of, the policy provided for by this subsection (4).

(5) (a) The board, in the performance of its duties under this article, shall have the power of subpoena over persons, and books, papers, records, and other things, and such power shall be enforceable by the courts; except that no subpoena shall be issued until said subpoena has been approved by a vote of the board.

(b) The chairman of the board, or any other member of the board designated by the chairman, shall have the power to administer oaths, in the performance of the duties of the board under this article.

~~(6) Except with~~ respect to exempt plans, upon the request of an employer and with the approval of sixty-five percent of the active members, the board shall permit the modification of any provision of a nonexempt pension plan of a fund established pursuant to part 3, 4, 5, or 6 of this article, if the board determines that such modification will maintain or enhance the actuarial soundness, as defined in section 31-30-1002 (1), of such fund. This subsection (6) shall not be construed to authorize the board to allow a modification of any such nonexempt plan so as to change the nature of the plan from a defined benefit plan to a money purchase plan or to adversely affect the pension benefits of retired members.

Source: L. 79, p. 1193, § 1; L. 80, pp. 663, 669, §§ 2, 6, 7; L. 81, pp. 1528, 1538, §§ 8, 2; L. 83, pp. 1269, 1276, §§ 5, 3; L. 85, p. 1079, §§ 3, 4.

C.J.S. See 70 C.J.S., Pensions, § 3.

**31-30-1006. Normal retirement.** (1) (a) Any member who has completed at least twenty-five years of active service and has attained the age of sixty years may be retired from further service and shall be eligible for a normal retirement pension, but any member may be retired from further service and be eligible for a normal retirement pension at any time after attaining the age of fifty-five years if his employer has certified to the board that there