

1 **4.62.010 Police and Fire Pension Plan ~~Advisory Committee~~ Board of Trustees.**

2 (a) A Police and Fire Pension Plan ~~Advisory Committee~~ Board of Trustees (the
3 "board") is hereby established to ~~advise the City with regard to the general~~ administer the
4 proper and effective operation of the Police and Fire Pension Plan established by ordinance
5 of the City Council. The ~~Police and Fire Pension Plan Advisory Committee~~ board shall be
6 ~~consulted and act as an advisory committee with regard to~~ have the sole and exclusive
7 responsibility to administer the Police and Fire Pension Plan, and shall be responsible for and
8 direct all investments and reinvestments of the funds of the plan and all sums credited to the
9 Fund. The board may delegate administrative duties to the City to manage and operate the
10 Fund, so long as the same are not inconsistent with the Police and Fire Pension Plan, the
11 Lincoln Municipal Code and City Charter, or other relevant law. The board shall be the final
12 authority on all decisions relating to the administration of the Fund.

13 (b) The Police and Fire Pension Plan ~~Advisory Committee~~ Board of Trustees
14 established pursuant to subsection (a) shall consist of ~~six committee members~~ nine trustees.
15 ~~Two committee members~~ board positions shall be ~~designated by the City Council, filled by~~
16 the City Finance Director and the City Personnel Director; two committee members two
17 trustees shall be elected by secret ballot by the active paid police officers of the City; ~~and two~~
18 ~~committee members~~ two trustees shall be elected by secret ballot by the active paid
19 firefighters of the City; and three trustees shall be appointed by the Mayor, after consultation
20 with the other six trustees, subject to approval by the City Council. The three appointed
21 trustees shall have at least five years demonstrated experience in financial, actuarial,
22 investment or employee benefit plan matters. Committee members who are not participants

1 in the plan shall have a general knowledge of retirement plans. Members of the City Council
2 may serve on the Police and Fire Pension Plan Advisory Committee.

3 The terms of the Police and Fire Pension Plan Advisory Committee members Board of
4 Trustees shall serve four-year terms with the exception of the initial members, one representa-
5 tive of each group shall have a two-year term. Any committee vacancy shall be filled by the
6 group which the member had represented for the remainder of the vacating member's term.
7 be as follows:

8 (1) The initial term of the trustees elected by the active paid police officers
9 and firefighters shall be (i) two years for one trustee designated by the police officers and one
10 trustee designated by the firefighters; and (ii) three years for the other two trustees designated
11 by the police officers and firefighters, respectively, as determined by each such group;

12 (2) The initial terms of the three appointed members shall be two, three, and
13 four years, respectively;

14 (3) The Finance and Personnel Directors shall serve a term concurrent with
15 their offices; and

16 (4) All subsequent terms of the trustees, except the Finance and Personnel
17 Directors, shall be five years.

18 (5) Five members of the board shall constitute a quorum for the transaction
19 of business and shall have full power to act under the terms of the plan. Five concurring votes
20 shall be required of the board to take action.

21 Section 3. That Chapter 4.62 of the Lincoln Municipal Code be amended by
22 adding a new section numbered 4.62.015 to read as follows:

1 **4.62.015 Board of Trustees; Duties.**

2 It shall be the duty of the Board of Trustees:

3 (a) To provide administration, oversight and direction to the City with regard to the
4 investment of the funds of the Police and Fire Pension Plan;

5 (b) To promulgate and adopt rules and regulations for the management of the board
6 and the trust;

7 (c) To keep a complete record of all proceedings taken at any meeting of the board
8 and to record in writing all actions and decisions of the board;

9 (d) To assure that investment decisions made by it will maintain the Police and Fire
10 Pension Plan's qualified status pursuant to the Internal Revenue Code;

11 (e) To act as fiduciaries with respect to the investment decisions and shall be held
12 to the standard of conduct of a fiduciary specified in subsection (f) of this section;

13 (f) As fiduciaries, the trustees shall discharge their duties with respect to the
14 investment of the funds of the Police and Fire Pension Plan solely in the interests of the plan
15 members and their beneficiaries for the exclusive purposes of providing benefits to members
16 and their beneficiaries and deferring reasonable expenses incurred within the limitations and
17 according to the powers, duties, and purposes prescribed by law. The trustees shall act with
18 the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent
19 person acting in like capacity and familiar with such matters would use in the conduct of an
20 enterprise of a like character and with like aims.

21 (g) The City shall have the following administrative duties subject to review and
22 approval by the board:

1 (1) To maintain such records as are necessary for calculating and distributing
2 retirement benefits;

3 (2) To maintain such records as are necessary for financial accounting and
4 reporting of retirement plan funds;

5 (3) To maintain such records as are necessary for the actuarial evaluation of
6 the retirement plan, including investigations into the mortality, service and compensation
7 experience of its members and beneficiaries;

8 (4) To compile such other administrative or investment information as is
9 necessary for the management of the retirement plan;

10 (5) To process, certify and/or respond to all correspondence, bills and
11 statements received by the retirement plan as well as all applications submitted to the board
12 for retirement benefits;

13 (6) To establish and maintain communication with City departments and
14 other agencies of government as is necessary for the management of the retirement plan,
15 including preparing, filing and distributing such reports and information as are required by law
16 to be prepared, filed or distributed on behalf of the plan;

17 (7) To determine all questions relating to and process all applications for
18 eligibility and participation in service retirement benefits;

19 (8) To distribute at regular intervals to employees, a comprehensive
20 summary plan description and periodic reports, not less than biennially regarding the financial
21 and annual actuarial status of the plan;

1 (9) To retain and compensate, after consultation and advice from the board,
2 such professional and technical advisors as is necessary to fulfill its fiduciary responsibilities
3 and in the selection, retention, and compensation of such professional and technical advisors
4 shall utilize the request for proposal process established by the City Charter and Lincoln
5 Municipal Code and the City's Purchasing Division rules and regulations;

6 (10) To assure the prompt deposit of all member contributions, City
7 contributions and investment earnings; and

8 (h) The board shall have the following administrative duties:

9 (1) To make recommendations regarding changes in the provisions of the
10 plan;

11 (2) To take such action as the board shall deem in its sole and exclusive
12 discretion, as being necessary for the efficient administration, operation, and management of
13 the Plan; and

14 (3) To retain its own legal counsel, accountants, actuaries, and other
15 professional advisors to assist the board in the performance of its duties. The board may act
16 without independent investigation upon the professional advice of the advisors retained by the
17 plan. All such legal counsel, accountants, actuaries and other professional advisors shall be
18 selected in accordance with the City's request for proposal process and purchasing regulations.
19 Any City employees utilized by the board for legal, administrative, financial or other services
20 shall be selected in accordance with the City's personnel and employment rules and
21 regulations.

1 (i) The board is authorized to prosecute or defend actions, claims or proceedings
2 of any nature or kind for the protection of the board in the performance of its duties.

3 (j) A trustee may be removed by a vote of not less than seven trustees for a failure
4 of fiduciary responsibility. The board, by rule, shall prescribe a procedure for receipt and
5 determination of such charges, consistent with the principals of due process in administrative
6 proceedings.

7 (k) No trustee shall be responsible, at his or her own expense, to take legal action
8 to correct the misconduct of any other member of the board. A trustee shall have an
9 affirmative obligation, however, to publicly reveal any misfeasance, malfeasance or
10 nonfeasance by a co-trustee, and upon making such revelation in a public meeting, shall be
11 relieved of further individual responsibility for the actions of that co-trustee.

12 (l) All trustees shall serve without compensation, although they shall be reimbursed
13 for all necessary expenses authorized by the board. The board shall be permitted to prescribe
14 uniform rules for reimbursement for travel expenditures, where necessary. Board members
15 who are City employees and attend meetings during working hours shall receive regular pay.

16 (m) The board shall biennially select a chairman and a secretary who shall execute
17 all authorized documents on behalf of the board. The board shall keep minutes of all
18 meetings, and the record of any action taken by the board shall be kept in written form and
19 maintained by the board. The board shall have the authority to make such uniform rules and
20 regulations and to take such action as may be necessary to carry out the provisions of the
21 Police and Fire Pension Plan which are not otherwise inconsistent with the Police and Fire
22 Pension Plan, the Lincoln Municipal Code or the City Charter.

1 Section 4. That Section 4.62.020 of the Lincoln Municipal Code be amended
2 to read as follows:

3 **4.62.020 Retirement Information.**

4 In cooperation with the Police and Fire Pension Plan ~~Advisory Committee~~ Board of
5 Trustees, the City shall:

6 (a) Provide each employee, upon becoming eligible to become a member of the
7 Police and Fire Pension Plan, a summary of plan requirements governing eligibility for all
8 benefits provided under the plan;

9 (b) Provide, when possible, within thirty days after a request is made by a member,
10 a statement describing the amount of benefits such member is eligible to receive, except that,
11 at the discretion of the board, such statement need not be provided more than once in any
12 twelve-month period; any subsequent requests shall be paid for by the member, unless such
13 payment is expressly waived by the board;

14 (c) Make available for review:

15 (1) An annual report of the plan's operations describing:

16 (i) the amount of contributions to the plan from both members and
17 the City;

18 (ii) the annual total of amounts credited to the plan;

19 (iii) the amount of benefit payments and other deductions made from
20 the plan; and

21 (2) An individualized report applicable to the plan shall be mailed annually
22 to each member's address of record.

1 (d) Have an analysis made of the investment return that has been achieved on the
2 assets of the plan administered by the City. The analysis shall be prepared as of January 1,
3 1989, and each five years thereafter. The analysis shall be prepared by an independent private
4 organization which has demonstrated expertise in the performance of this type of analysis and
5 which is unrelated to any organization offering investment advice or providing investment
6 management services to the plan.

7 Section 5. That Chapter 4.62 of the Lincoln Municipal Code be amended by
8 adding a new section numbered 4.62.025 to read as follows:

9 **4.62.025 Investment of Plan Assets.**

10 (a) The administration, oversight and supervision of the Fund shall be with the
11 board. All assets of the plan may be co-mingled, provided such co-mingling of assets is done
12 in conformity with law and accurate records are maintained at all times reflecting the financial
13 composition of the Fund. Accurate accounts shall be maintained regarding and pursuant to
14 the following:

15 (1) Current amounts of accumulated contributions of members, both on an
16 individual and aggregate basis;

17 (2) Receipts and disbursements;

18 (3) Benefit payments;

19 (4) All contributions from the City;

20 (5) All interest, dividends, gains and losses from investments;

21 (6) Such other entries as may be required for a clear, complete financial
22 report of the status of the fund.

1 **(b)** The board shall establish a written investment policy, with the advice and
2 counsel of such advisors as the board deems necessary, and said investment policy shall set
3 forth the types of investments into which shall be placed the assets of the fund. The policy
4 shall further set forth appropriate limitations on those investments, including but not limited
5 to, the anticipated rate of return, quality of investment, class of investment, maturity and
6 liquidity , and acceptable risk. The board shall have the authority to invest and reinvest the
7 assets of the plan in such securities and investments as are outlined in Neb. Rev. Stat. § 30-
8 3209(1)(a)-(i)(2002 Cum. Supp.).

9 **(c)** The board shall, in consultation with its investment advisors, determine the
10 percentage of each type of investment to be held.

11 **(d)** The board shall be authorized to retain one or more money managers for the
12 management of property held in the plan, and the board make available the plan assets to such
13 money managers for investment and re-investment in accordance with the terms of this
14 ordinance and the investment policies established by the board. Any such money manager
15 contracting with the board for the investment of its assets shall be deemed a fiduciary of the
16 plan. The selection of the money manager as provided for herein shall be in accordance with
17 the City's request for proposal process and established purchasing rules and regulations.

18 **(e)** The board shall have a continuing duty to observe and evaluate the performance
19 of any money manager retained by the board. The board shall, in selecting a money manager
20 or other investment counsel, exercise all judgment and care in the circumstances then
21 prevailing which persons of prudence, discretion and intelligence exercise in the management
22 of their own affairs.

1 (f) The board shall require that any money manager or other agent who has custody
2 or control of any property of the plan to keep accurate and detailed accounts of all
3 investments, receipts, disbursements and other transactions pertaining to such trust property,
4 and the board shall further require that all accounts, books and records pertaining thereto be
5 open for inspection and audit at all reasonable times by the City, the board or the designees.
6 The City shall also be authorized to conduct an independent audit at its expense of the fund.

7 (g) The board shall also keep accurate and detailed accounts of all investments,
8 receipts, disbursements or other transactions pertaining to the trust property and all accounts,
9 books and records pertaining thereto shall be open to inspection and audit at all reasonable
10 times by the City or its designees.

11 (h) The board shall retain the services of a qualified independent investment
12 consultant who shall, on a quarterly basis, report on the relative performance of the plans
13 investment managers and recommend to the trustees the retention or replacement of such
14 managers and further advise the board on manager selection. The selection of an independent
15 investment consultant shall be done in accordance with the City's request for proposal process
16 and purchasing rules and regulations. A qualified independent investment advisor shall, at
17 a minimum, provide services on a flat fee basis; not be associated with any investment
18 manager for the plan; make calculations according to the American Banking Institute method
19 of calculating time weighted rates of return, net of fees; and have a minimum of five years
20 experience in the evaluation of public employee retirement plans and systems.

21 (i) The board, together with the City, shall make an annual report to the City
22 Council and the Mayor of the financial condition of the plan and of the investment

1 performance of the plan for the preceding fiscal year. The investment records of the plan
2 shall, at all reasonable times, be open to the City for inspection, audit and review.

3 Section 6. That Chapter 4.62 of the Lincoln Municipal Code be amended by
4 adding a new section numbered 4.62.030 to read as follows:

5 **4.62.030 Board of Trustees; Personal Liability.**

6 No trustee of the Police and Fire Pension Plan Board of Trustees shall be personally
7 liable except in cases of willful dishonestly, gross negligence, or intentional violations of law,
8 for actions relating to investment decisions pertaining to the funds of the Police and Fire
9 Pension Plan. The board is authorized, at the expense of the Fund, to purchase a policy of
10 fiduciary insurance, provided that any non-recourse provision shall not be paid for with Fund
11 assets.

12 Section 7. That Sections 4.62.010 and 4.62.020 of the Lincoln Municipal Code
13 as hitherto existing be and the same are hereby repealed.

14 Section 8. That this ordinance shall take effect and be in force from and after
15 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2003: _____ Mayor
