

December 12, 2018



**POLICE AND FIREFIGHTERS' PENSION BOARD
 REGULAR BOARD MEETING
 888 South Andrews Avenue, Suite 202
 Fort Lauderdale, FL 33316
 Wednesday, December 12, 2018, 12:30 P.M.**

Board Members

Ken Rudominer, Chair	P
Richard Fortunato, Vice Chair	P
Scott Bayne, Secretary	P
Jim Naugle, Trustee	P
Jeff Cameron, Trustee	P
Dennis Hole, Trustee	P
Derek Joseph, Trustee	P
Lynn Wenguer, Executive Director	P

Also Present

Alexandra Goyes, Deputy Director
 Jacqueline Garcia, Administrative Assistant
 Fred Nesbitt, Board Communication Director
 Robert Klausner, Board Attorney
 Sgt. Deanna Greenlaw
 Sgt. Travis O'Neal
 Michael Viveros, Fire Dept.
 Laura Garcia, City Finance Department
 Anthony Scott
 J. Wells, Fire Department
 Jack Chew, retirees association
 Paul DeBold, retirees association
 Kevin Schmid, CAPTRUST
 Jamie Opperlee, Prototype Inc.

ROLL CALL/CALL TO ORDER

The meeting was called to order at 12:35 p.m. Roll was called and a quorum was determined to be present.

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

The Pledge of Allegiance was followed by a moment of silence.

MINUTES: November 14, 2018

Motion made by Mr. Naugle, seconded by Mr. Hole to approve the Board's November 14, 2018 regular meeting minutes. In a voice vote, motion passed unanimously.

NEW HIRES:

Chair Rudominer recognized the new hires.

BENEFITS:	FIRE DEPT:	New Retiree: (Term of DROP)	Danielle Gustafson
		DROP Retiree:	Paul M Bodie David Mercado David A. Bourgouin
		Survivor Death:	Delores D. Kenney

POLICE DEPT: **New Retiree: (Term of** Juan E. Cabrera
DROP)
Service **Disability Application** Anthony Scott
Incurred (under separate cover)

Motion made by Mr. Bayne, seconded by Mr. Joseph, to approve payment of the benefits as stated. In a voice vote, the motion passed unanimously.

BILLS:	Northern Trust	\$36,759.35
	CAPTRUST	\$21,250.00
	Klausner, Kaufman	\$3,000.00
	Dr. Cornel J. Lupu	\$1,800.00

Motion made by Mr. Hole, seconded by Mr. Bayne, to approve payment of the bills as stated. In a voice vote, the motion passed unanimously.

Fire Department Service Incurred Disability Application - Anthony Scott

Mr. Klausner reported there were four medical opinions. Dr. Lupu opined that Mr. Scott's back, neck and thoracic pain, and inability to raise his legs were related to Mr. Scott's decision not to exercise and he believed that resumption of stretching and strengthening exercise would relieve the pains. Dr. Lupu believed Mr. Scott was totally incapacitated and unable to perform regular, continuous duty as a police officer and the injuries were consistent with the reported line of duty injury.

Dr. Hermida opined that Mr. Scott's injuries were permanent and would prevent him from regular, full duties as a police officer.

Dr. Bertot opined that Mr. Scott could not perform the necessary activities of a police officer, not because of his neck and back, but because of the pain medication he was taking.

Dr. Shafi opined that Mr. Scott was not totally incapacitated from regular and continuous duty as a police officer, but had assigned partial impairment ratings for Mr. Scott's cervical spine, right shoulder and his body as a whole.

Mr. Klausner said due to the difference of opinion, the Board may want to refer the matter back for a functional capacity test of some kind.

Chair Rudominer explained that informal hearings such as this were usually for clear-cut cases.

Mr. Scott's current supervisor, Sgt. Travis O'Neal, reported Mr. Scott was on light duty, such as answering phones, and did not handle any situation that could become physical. He had been on light duty since July 8, 2016. He confirmed there were no permanent light-duty positions in the Police Department.

Sgt. Deanna Greenlaw, Mr. Scott's previous supervisor, agreed to provide a copy of Mr. Scott's other employment record. She stated there was a record (in emails) of Mr. Scott being AWOL and Sgt. O'Neal said he had also been AWOL since Sgt. O'Neal had been his supervisor.

Mr. Scott testified that the off duty detail (other employment) came about when the City informed him they were about to fire him and try to find him another position in the City.

Mr. Scott had started working in a friend's office and lost the job because he could not handle it. In the meantime, the City never fired him. He stated he was never AWOL.

Mr. Klausner explained the Board's options.

Mr. Scott informed Mr. Joseph that he had been in physical therapy for 28 months, two to three days per week and he would never stop. He explained that the shoulder issue was not that he had stopped physical therapy; it was because he had an impingement and the scar tissue was so bad they did not know how to address it. Mr. Scott remarked that Dr. Chalal had made a notation, "Return to full duty" despite the fact that Mr. Scott could not put his arm behind his back. Dr. Lupu said he had tried to call Dr. Chalal but Dr. Chalal would not speak to him.

Sgt. Greenlaw had an email dated 11/28/16 from Dr. Chalal's nurse indicating Mr. Scott had not shown up for a therapy appointment and refused to reschedule, because he had an attorney.

Chair Rudominer noted that the hearing was now going beyond the scope of an informal hearing and suggested moving toward the next step.

Motion made by Chair Rudominer, seconded by Mr. Joseph, to deny the application, because the current medical evidence in the record is insufficient to establish, by a greater weight of the evidence, that the member is permanently and totally disabled from useful and efficient service as a Fort Lauderdale police officer as the result of an automobile accident in 2016, and to authorize a functional capacity assessment. In a voice vote, motion passed 7-0.

Mr. Scott thought Dr. Chalal may have checked the box indicating he was fit for duty in error.

COMMENTS FROM THE PUBLIC/ACTIVE & RETIRED POLICE OFFICERS & FIREFIGHTERS

Mr. DeBold wished everyone Happy Holidays.

ATTORNEY'S REPORT:

Mr. Klausner said the new tax bill affected their membership in one respect. If a member got divorced after January 1, 2019 and there was alimony, the alimony would be the burden of the member, not income to the recipient.

Mr. Klausner said the California Supreme Court had recently heard a case involving Cal Fire regarding a provision that allowed members to buy "air time," which was time not time actually worked, but which advanced one's retirement date. The State of California had eliminated this in 2013 and been sued by Cal Fire. A trial court had ruled for Cal Fire but a district court had ruled that: A. The air time was not a part of the base benefit of the plan; B. Even it was, it was constitutional to take it away and C. Maybe the California Rule is wrong and should be revisited and Cal Fire members should get a "reasonable pension" rather than the pension that they earned. The Supreme Court had agreed to hear this.

Chair Rudominer asked if this could set a precedent nationwide for reducing benefits and Mr. Klausner explained that this applied to plans that used the California Rule. Florida already said that absent some specific provision in the plan to the contrary, benefits could be changed prospectively, unless one was already eligible to retire.

EXECUTIVE DIRECTOR'S REPORT:

Prior Fire Service- Clarification

Ms. Wenguer said they had recalculated for all Fire members and most of their buybacks had decreased by roughly the same percentage. Mr. Viveros explained the difference between his and another member's calculation and he believed that his calculation was not correct.

Chair Rudominer recalled that Mr. Viveros had been the one to bring this issue of discrepancies to the Board's attention a couple of months ago and they had consulted with the actuary and revised the calculation method pursuant to their discussion with Mr. Viveros.

Mr. Heinrichs joined the meeting by phone. Chair Rudominer said there still seemed to be discrepancies in the calculations. Mr. Heinrichs summarized a letter he had sent to the Board on 11/13

in which he walked through comparisons of members' calculations to explain how a change in just one variable could affect the buyback. Mr. Heinrichs said they had ensured the numbers were consistent, based upon the data they were provided. The Board and Mr. Heinrichs discussed several different scenarios.

Mr. Heinrichs said the Board needed to decide how they wanted him to perform the calculations as of 1/1/19 and recalled they had discussed going to a simplified approach in 2019. He stated he could create a spreadsheet that would give everyone an idea of what each year of service would cost them as a percentage of their pay.

Mr. Viveros said it still did not make sense to him why he was paying more than others whose age, rank and salary history was so similar to his.

Mr. Klausner agreed to draft an order indicating this matter had been reviewed, describing the actuarial factors that had been used and stating that the Board accepted the result. The Board could vote on this order at their next meeting. Mr. Viveros could A) Do nothing; B) Buy the time or C) Sue the Board.

Chair Rudominer recalled they had agreed that going forward, Mr. Heinrichs would use the simplified calculation method and the most current evaluation data.

Ms. Wenguer said someone had asked how long they had to purchase the time after they applied. Originally, they had been told they had six months, but she asked if this was six months from the application date or from the date they received the recalculated amount. The Board and Mr. Klausner agreed it should be from the date they received the calculation.

EnTrust Peru Bonds

Mr. Klausner reported there were two plans regarding the bonds. The Board's plan was that nothing would happen with the bonds until Peru unfroze them and they were being charged 50 basis points per year for EnTrust to manage them. EnTrust was trying to get everyone to move to the other no-fee plan, in the hopes that a larger asset pool would make it easier to make a deal for selling the bonds. If they moved to the other plan and there was an offer they did not like, they could move back to the original plan. Mr. Klausner could not think of a reason for not switching plans. Mr. Schmid said there was no downside to changing to plans and he recommended doing so.

Motion made by Mr. Fortunato, seconded by Mr. Joseph, to authorize the plan administrator to sign the necessary paperwork to switch plans with EnTrust regarding the Peruvian bonds. In a voice vote, motion passed unanimously.

CAPTRUST:

Kevin Schmid

Quarterly Investment Review

Mr. Schmid reported the market had been very volatile recently. Some of the volatility was due to trade concerns. Interest rates and the yield curve were also affecting the market and it was assumed the Federal Reserve would raise rates in December.

Mr. Schmid stated there had also been an inverted yield curve the previous week, which typically preceded a recession. He said they were not overly concerned. Ms. Schmid stated it was a good time to have the investment workshop for them to discuss what was going on and he was working on the agenda now.

COMMUNICATION DIRECTOR'S REPORT

Mr. Nesbitt was still working on the annual report and asked for input. He said the Board had been featured in the FPPTA e-newsletter because the trustees and administrators were CPPT certified and an example of the FPPTA educational program.

Investment Workshop

Ms. Wenguer informed the Board that the seminar was set for January 15, 2019. The welcome gathering was on January 14 and the Board meeting would be on January 16.

January 2019 Meeting Date Change

The Board's January meeting would be on January 16.

PENDING ITEMS:

New Business:

Old Business:

Schedule A

Ms. Wenguer reported the General Employees had met with the city manager regarding the COLA and asked for additional cost studies.

There being no further business to come before the Board at this time, the meeting was adjourned at 2:12 p.m.

**FOR YOUR INFORMATION:
KCG Recapture Statement**

Summary/October, 2018

Secretary

Chairman

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

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