

October 11, 2016

**POLICE AND FIREFIGHTERS' PENSION BOARD
REGULAR BOARD MEETING
888 South Andrews Avenue, Suite 202
Fort Lauderdale, FL 33316
Tuesday, October 11, 2016, 12:30 P.M.**

Present

Michael Dew, Chair
Ken Rudominer, Vice Chair
Scott Bayne, Trustee
Jeff Cameron, Trustee
Dennis Hole, Trustee
Lynn Wenguer, Executive Director

Absent

Richard Fortunato, Trustee
Jim Naugle, Trustee

Also Present

Kevin Schmid, CapTrust
Alexandra Goyes, Deputy Director
Jazmin Elliott, Administrative Aide
Linda Logan-Short, Deputy Director of Finance
John Herbst, City Auditor
Stuart Kaufman, Board Attorney
Jim Ingersoll, President, Retirees' Association
Paul DeBold, VP Retirees' Association
Jack Chew, Retirees' Association
Michael Salzano
Fred Nesbitt, Communication Director
Anna Parish, attorney
Sivon Falcone
Jamie Opperee, Recording Secretary, Prototype Inc.

ROLL CALL/CALL TO ORDER

Chair Dew called the meeting 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:

Regular Meeting: September 14, 2016
Mr. Hole noted a correction to the minutes.

Motion made by Mr. Bayne, seconded by Mr. Rudominer, to approve the minutes of the September 14, 2016 meeting as amended. In a voice vote, the motion passed unanimously.

COMMENTS FROM THE PUBLIC

None.

NEW HIRES

Chair Dew recognized the new hires.

BENEFITS:	POLICE DEPT:	New Retiree:	Frank Sebregandio
		(Term of Drop)	John R Hospodavis
		Non Vested	Christie E Schade
BENEFITS:	FIRE DEPT:	Termination:	
		Survivor Death:	Betty MacNeil
		Service Incurred	Daniel Falcone
		Death Benefit	
		Application:	
		(under separate cover)	

Motion made by Mr. Rudominer, seconded by Mr. Hole, to approve payment of the Police Department benefits as stated. In a voice vote, the motion passed unanimously.

Chair Dew stated the Board would consider Daniel Falcone's service incurred death benefit application later.

Motion made by Mr. Hole, seconded by Mr. Bayne, to approve payment of the Betty Daniel Fire Department benefit as stated. In a voice vote, the motion passed unanimously.

BILLS:	Northern Trust	\$39,819.06
	Milliman	\$21,850.00
	CapTrust	\$21,250.00
	Holland & Knight	\$225.00

Ms. Wenguer confirmed that the Milliman fee was billed quarterly, per the contract.

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

INPUT FROM ACTIVE & RETIRED POLICE OFFICERS & FIREFIGHTERS

Chair Dew said he had received positive feedback regarding his response letter to Mr. Ciani

Daniel Falcone Death Benefit

Mr. Klausner said he had reviewed hundreds of pages of medical records and the most important thing he had found was on page 5 of 6 of Dr. Lupu's report, in which he stated, "Whether heart attack or pulmonary embolism occurred as the last event is a matter of conjecture." The reason this was important was that there was a very small number of cases in the country in which a pulmonary embolism had been the cause of death when there was a presumptive disease clause in place.

Mr. Klausner continued that Florida statute indicated that "a Firefighter or Police Officer who dies from a disease of the heart or the cardiovascular system is presumed to have died in the line of duty unless either there was a pre-existing condition...or there is evidence of some external cause." Conjecture was not allowed as a means to overcome the presumption.

Mr. Klausner related the story of a New York City Police Officer who had recently died of an aneurism while on duty. The medical board had decided that they did not know why the aneurism occurred, so it was a matter of conjecture whether it was job related or not. The New York Appellate Division had held that because the cause of the disability was open to conjecture, it was insufficient to overturn the presumption.

In Mr. Klausner's view, there was not sufficient evidence in the record to overcome the statutory presumption; there needed to be clear and convincing evidence of an alternative cause. He said the autopsy report stated, "We do not know what the cause of death was" so as a matter of law, the presumption should apply.

Mr. Klausner clarified that Dr. Lupu had stated he did not know the cause of death, so they presumed it was related to line of duty.

Mr. Klausner said there was nothing to show that the only cause of death was the pneumonia from which Mr. Falcone had been suffering. Despite the fact that Mr. Falcone was in the hospital and closely monitored, "we don't know what happened." This was exactly what the Heart/Lung Bill was designed to address: unexplained deaths of firefighters and police.

Mr. Rudominer stated the Board's findings should be based on what was presented to them and on Mr. Klausner's interpretation of the law.

Motion made by Mr. Bayne, seconded by Mr. Hole to find that on the totality of the evidence and the application of the heart/lung presumptive law, there is insufficient evidence in the record to overcome the statutory presumption and therefore, the Board finds that Mr. Falcone had a duty-related death.

Mr. Rudominer asked Siron Falcone, Mr. Falcone's widow, if she had discussed with Ms. Wenguer whether the service-related death benefit or a normal retirement would be the best benefit for her. Ms. Falcone said she did not know; she knew the pension difference but the important thing was that this was her husband's life and she felt it important to do her husband justice by finding his death had been in the line of duty. Mr. Klausner remarked that a duty-related death was tax exempt. Ms. Wenguer said she had discussed this with Ms. Falcone and her father and it was "sort of a guessing game" to figure out which was better.

In a roll call vote, **motion** passed 5-0.

Ms. Falcone thanked the Board.

CAPTRUST

Kevin Schmid, Steve Schott, CapTrust

Monthly Investment Review

Mr. Schmid reported bonds were flat for the quarter; the S&P 500 was up 3.85%; small and international equities were much better for the quarter. They were at 5.3% through three quarters, and they should get above 7.5% for the year.

Mr. Hole said he had heard the term Smart Beta, convertible bonds and emerging markets from many managers at the FTTPA, and he felt they may want to consider emerging markets again. Mr. Schmid said Dodge and Cox was 30% in emerging markets and remarked he would rather do this through Dodge and Cox than directly because it was very volatile.

Chair Dew had spoken with City Manager Feldman regarding the Actuarial Rate of Return and Mr. Feldman had informed him that he would hold a workshop in the future to discuss this and the Board would be invited to attend. Mr. Rudominer wanted to be sure that the meeting was properly posted and the Board could attend this workshop.

COMMUNICATION DIRECTOR'S REPORT:

Mr. Nesbitt was late to the meeting.

LEGAL UPDATE

Robert Klausner

Mr. Klausner informed the Board that a former member had suffered an injury in the Police Academy that would prevent him from ever being certified as a law enforcement officer. City Code stated that membership was mandatory, provided that the employee met all requirements of the City for employment as a Police officer. The employee had had been kept on light duty for four years until it was determined he could never be certified. This employee had applied for a disability retirement. Whether he was sufficiently disabled was not the issue; the question was whether or not he met the definition of a Police Officer. A Police Officer, under City code, was someone who was certified or could be, and he could not be. Mr. Klausner felt that as a matter of law, he was not eligible for a disability retirement and

he should receive a return of contributions as any non-vested, separated participant would receive. Whether he should receive workers compensation from the City was a determination of another form.

Mr. Rudominer asked how this affected the plan going forward: should all non-certified members join GERS until they were certified? Chair Dew said they used to do this but had stopped because it had caused a major problem. Mr. Klausner said membership was contingent upon certification; if someone failed to meet that condition, he/she got a refund of the contribution. Ms. Wenguer stated she had accepted this application because he had been here for four years.

Mr. Klausner agreed to help Ms. Wenguer draft a letter informing the former member of his options and telling him that administratively, they could not process his application. He said it was unfortunate that the system did not contemplate disabling injuries while in a non-certified capacity.

Motion made by Mr. Hole, seconded by Mr. Rudominer, to adopt the opinion of counsel and instruct the administrator to act accordingly. In a voice vote, motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT:

Retirement Seminar

Ms. Wenguer said there had been many attendees and the event was very successful.

Trustee Election Timeline

Chair Dew suggested appointing a Board member's replacement six months prior to the existing member's retirement so he/she could be educated and join the Board as a contributing member.

Mr. Klausner said some boards required new members to attend the meetings in order to be eligible to join. Ms. Wenguer noted that some boards had qualifications, such as attending a certain number of board meetings. Mr. Klausner said requirements varied, and they could change anything except the length of terms, because this was statutory. He noted that in political elections, there was always a transition period between being elected and taking office.

Mr. Hole was concerned that additional requirements could discourage people from serving. He saw no problem with the requirements as they were. Mr. Bayne agreed but wanted to encourage potential members to get educated about the Board.

Travel Policy

Ms. Wenguer reminded Board members that their policy stated any member who was within 90 days of his/or term end must have any travel expenses approved by the Board. There were two conferences coming up: the Division of Retirement and the International Foundation and the Board must approve attendance for those trustees whose terms were up. Mr. Fortunato wished to attend the International Foundation conference.

Mr. Klausner stated if a Board member had a Board-issued credit card and registered without being authorized by the Board, he/she would be responsible to reimburse the Board. If a Board member wanted to continue serving, it was in the Board's interest to continue the education process.

Mr. Rudominer asked permission to attend the NCPERS conference in Las Vegas and said he had submitted for reappointment in December.

Motion made by Mr. Bayne, seconded by Mr. Hole, to approve continuing education/travel expenses until the end of the year for any Board member whose term was ending but who wished to continue serving on the Board. In a voice vote, motion passed unanimously.

Fiduciary Liability Insurance

Ms. Wenguer reported the total cost was \$15,192.

Motion made by Mr. Rudominer, seconded by Mr. Bayne, to approve. In a voice vote, motion passed unanimously.

Investment Consultant

Ms. Wenguer stated they had done three one-year renewals on the contract. She said they did not have a policy regarding how often they should issue RFPs. Chair Dew requested this be put on a future agenda to discuss when more members were present.

Ms. Wenguer said she had not received the one-year renewal from the actuary yet but he indicated he would send it.

Assumed rate of Return

Ms. Wenguer reported the date for the meeting had not been set yet.

State Supplemental Money

Ms. Wenguer reported they had received the funds and firefighters who had terminated their employment should be receiving the money within a couple of months.

PENDING ITEMS:

New Business:

None.

Old Business: Funding Policy

Schedule A

Mr. Hole recalled that he had tried to get the Board to adopt a funding policy and asked Mr. Klausner if they should. Mr. Hole explained that this was a document indicating the methodology for how new members were costed out. Mr. Klausner stated the IRS approved many methods, including the GASB "entry age normal" standards under which the City operated.

Mr. Klausner suggested this be included in their investment policy statement. They could use the GASB 67 disclosure requirement for the City because this was the most accurate predictor of long-term liability and the City's creditworthiness.

Mr. Schmid explained that they addressed the actuarial return as a goal in the investment policy statement.

Employee Handbook

The Board discussed tuition reimbursement and Mr. Klausner said there was a statute related to this.

FOR YOUR INFORMATION:

**Attorney's Fees Reimbursement
175 Supplemental Tax Funds
KCG Recapture Statement**

**Letter dated Sept. 28, 2016
Confirmation
Recapture Summary/August, 2016**

There being no further business to come before the Board at this time, the meeting was adjourned at 2:05 p.m.

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

[Minutes prepared by J. Opperlee, Prototype, Inc.]

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