



**POLICE AND FIREFIGHTERS' PENSION BOARD
REGULAR BOARD MEETING
888 South Andrews Avenue, Suite 202
Fort Lauderdale, FL 33316
Wednesday, January 12, 2022, 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

Also Present

Lynn Wenguer, Executive Director	Steve Loleski, Fire Dept.
Katherine Alvarez, Administrative Assistant	Freddie Batista, Fire Dept.
Kelly Phillips	Robert Klausner, Board Attorney
	Jason Fox

ROLL CALL/CALL TO ORDER

The meeting was called to order at 12:30 p.m. Roll was called and a quorum was determined to be present.

ELECTION OF OFFICERS

Mr. Bayne nominated Mr. Rudominer for Chair, seconded by Mr. Joseph. Mr. Joseph nominated Mr. Fortunato for Vice Chair, seconded by Mr. Bayne. Mr. Rudominer nominated Mr. Bayne for Secretary, seconded by Mr. Joseph.

All officers were elected by acclamation.

Service Incurred Disability Hearing: (under separate cover) Kelly Phillips

Mr. Klausner explained that per the code, a member must establish a medically substantiated, service-connected injury in order to receive a service disability retirement. He summarized the medical reports and depositions. Mr. Klausner said it was the Board's responsibility to determine the cause of the disability. He explained that their plan and Chapter 185 were silent regarding pre-existing conditions and described the one Florida

public pension case regarding aggravation, which determined that aggravation of a condition would make it a duty-related disability. He informed the Board about an appeal of a board decision in Pompano Beach, in which the appeals court declared that when there were conflicting medical opinions, the trier of fact must decide which convinced them the most. So the Board must decide whether the applicant had convinced them by the greater weight of the evidence that the claimant's end-stage arthritis, which resulted in the double hip replacement, was the direct cause of her disability or was a substantial aggravating factor and she should be awarded a service-connected disability retirement.

Jason Fox, attorney for Kelly Phillips, explained how Ms. Phillips had experienced no issues prior to her work-related injury on October 28, 2016, which was exacerbated by a subsequent incident on August 12, 2017. He stressed that no one was arguing that the injury was not permanent and total: the question was whether it had been suffered in the line of duty. Mr. Fox noted that in the workers compensation case, the City had accepted that this was a work-related injury.

Mr. Fox noted that doctors had never indicated there was a condition or issue that caused the arthritis. He said they believed the arthritis had accumulated from microtraumas, training, and multiple car accidents Ms. Phillips had experienced at work.

Mr. Klausner explained that a workers compensation determination was not binding on the Pension Board and vice versa. The Board only needed to decide whether the medical reports convinced them that the current condition in which Officer Phillips found herself was the direct result of an accident or sufficiently aggravated a pre-existing condition that led to her current state of disability.

Mr. Fortunato asked if he should recuse himself because he had supervised Ms. Phillips on the job. Mr. Klausner stated he should not, because he had never been asked in the course of his job to evaluate her illness.

Motion made by Mr. Fortunato, seconded by Mr. Bayne, to grant the duty-incurred disability, effective on 6/26/21.

Mr. Hole said, "The doctors that we sent the applicant to all seemed to agree, 'pre-existing, degenerative condition,' and I believe they agreed that her condition was not consistent with the line of duty incidents of 10/28/16 and 8/12/17 or rather, the incidents were aggravated or exacerbated by her pre-existing condition." He would therefore oppose the motion.

Chair Rudominer said when he considered an application, he thought about whether the applicant could be malingering, and obviously, Ms. Phillips was not because she had the hip replacements. He also compared what a normal retirement would have been compared to disability and in this case, there was not a significant difference. He believed the Board had granted other applications for injuries that were aggravated and deemed to be pre-existing.

Mr. Klausner reminded the Board that four members must agree in order to grant the request. If the applicant was denied here, he would recommend an advocate for the formal hearing to argue why their decision was correct.

In a roll call vote, **motion passed** 6-1 with Mr. Hole opposed.

MINUTES:

Regular Meeting: December 8, 2020

Motion made by Mr. Bayne, seconded by Mr. Fortunato to approve the Board's December 8, 2021 meeting minutes. In a voice vote, motion passed unanimously.

NEW HIRES:

Chair Rudominer welcomed the new hires.

BENEFITS:

POLICE DEPT:	New Retiree:(DROP Termination):	Karl A Robertson
	DROP Retiree:	Jason G Wood Anthony A Windes Ian S Sandman Carlton W Smith Steven W Kraft Shane E Calvey
	New Beneficiary:	Keith Abrahamsen Kathleen White
	Retiree Death:	Arley M Risner
FIRE DEPT:	DROP Retiree:	Robert O Hamilton II Christopher Cortes
	New Beneficiary:	Suzanne Palmer
	Retiree Death:	John E Lundstrom

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

BILLS:

AON Risk Services	\$16,195.00
Milliman	\$5,625.00
Klausner, Kaufman	\$3,500.00
Klausner, Kaufman	\$3,500.00
Dr. Cornel J Lupu	\$3,200.00
Dr. Domingo Delgado-Garcia-IME	\$1,500.00

Without a motion, the Board approve payment of the bills as stated.

**COMMENTS FROM PUBLIC/ INPUT FROM ACTIVE & RETIRED
POLICE OFFICERS & FIREFIGHTERS:**

Chair Rudominer had received a second email from Mr. Semrow. He said since the first letter, they had been trying to establish a COLA dashboard on the website. He also wanted to ask the actuary to highlight his report section that pertained to paying a COLA. Chair Rudominer agreed to draft a letter to Mr. Semrow directing him to the requested resources.

**CAPTRUST:
Monthly Investment Review**

Kyle Campbell

Mr. Campbell was not present.

ATTORNEY'S REPORT

Robert Klausner

Executive Director's Contract

Mr. Klausner had drafted the complaint for mandamus because the City had not responded. He noted the Board had the ability to hire and compensate its own employees and the pension code was non-discretionary regarding taking contributions out of compensation, provided the compensation was under the IRS maximum limit. Mr. Klausner said he had asked repeatedly for a meeting and there had been no response.

Mr. Klausner stated the Board had the option to create a retirement plan for Ms. Wenguer to make up the difference between the GE Plan and what her employment agreement would have yielded. This would be in the form of an annuity.

Board members agreed Mr. Klausner should proceed against the City.

AgAmerica

Mr. Klausner reported he had several phone conversations with AgAmerica in November and December and they were still discussing the side letter. The issue was AgAmerica had never had a side letter before.

Policy for Contribution Repayment

Mr. Klausner had presented a draft. He suggested the period for buyback could equal the period allowed to pay for it. If the Board wanted to set a maximum period, he would include that in the policy. He stated the policy could be applied to Mr. Batista and Mr. Loleski. Ms. Wenguer said the policy should indicate that the balance due must be paid prior to entering the DROP or retiring and Mr. Klausner agreed to add this. Mr. Klausner said the interest would be based on the yearly valuation results and would be in place on the date the agreement with the member was signed. He confirmed that share monies could not be used and he would add this to the policy.

Ordinance Re-write

Mr. Klausner stated he was still waiting for the City regarding the ordinance re-write.

Mr. Hole asked about the possible forfeiture he had mentioned at the last meeting and Mr. Klausner stated they already had the criminal file and had looked at it. He said the issue was the crime's nexus to the job. Ms. Wenguer stated this member had not applied for retirement. Mr. Bayne said he assumed the member would soon apply for separation of service. Mr. Klausner confirmed that until the Board determined there was no nexus to the job, the member would not have access to share money. He said he would want to speak to prosecutors to determine if there was a nexus to the job. Mr. Klausner agreed to provide the Board with a primer on the law regarding this next month as part of his report.

COMMUNICATION DIRECTOR'S REPORT

Fred Nesbitt

Mr. Nesbitt was not present.

EXECUTIVE DIRECTOR'S REPORT:

Trustee Education and Travel Policy

Mr. Hole said a trainee was allowed to attend two Florida meetings per year and must be a member of the FPPTA to attend that meeting. He felt it was only proper to pay for the member to attend the FPPTA. Ms. Wenguer said she needed to check if the trainee had attended more than 50% of the Board's meetings. Mr. Bayne stated they also needed to consider if a member missed a meeting due to Covid. Chair Rudominer suggested requiring a trainee to undergo online FPPTA training prior to attending a meeting.

Website Design

Ms. Wenguer reported the new website designer had declined to help upload the COLA documentation, so they needed a new web designer.

Executive Director's Contract

Ms. Wenguer reported the City had not changed her salary at all.

Ms. Wenguer said General Employees had just gone live with Key Bank and it had gone pretty well. She believed they would transition the retirees' check processing to Key Bank in the future.

PENDING ITEMS:

New Business:

None

Old Business:

Schedule A

None

There being no further business to come before the Board at this time, the meeting was adjourned at 2:31 p.m.

Secretary

Chairman

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