

# NEW ORLEANS FIRE FIGHTER'S PENSION AND RELIEF FUND

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**Martin Gaal**  
Board President

**Thomas F. Meagher, III.**  
Secretary-Treasurer

**SUBJECT:**

**Board of Trustees Regular Meeting  
Fire Fighter's Pension & Relief Fund**

**TIME, DATE AND PLACE:**

**April 15, 2015  
3520 General DeGaulle  
Suite 3001  
New Orleans, Louisiana 70130**

**Board President Martin Gaal called the meeting to order. The following members of the Board of Trustees were present: Martin Gaal, Thomas Meagher, Angelo Marchese, Tim McConnell, Nick Lavene and Norman Foster.**

**Total as follows: Six (6) members present, one vacancy. A quorum being present, the meeting was called to order at 2:00 pm.**

**Also present,**

**Pam Meyer  
Louis Robein, Board attorney  
Paul Mitchell  
Kenny Prevost, firefighter  
J. Petruska, retired firefighter  
E. Pollock, firefighter  
Brad Howard, mayor's office  
Ricard Connors, firefighter  
Derrick Francis, mayor's office  
Robert McClendon, NOLA.com  
Jeff Addison, Advocate**

**REVIEW AND ACCEPT MINUTES**

McConnell discussed several changes to the January Board minutes. He noted that he did receive a copy of the revised draft minutes which may contain some of the changes he is noting. McConnell discussed several of his concerns regarding the minutes based upon his notes. Mr. Mitchell requested that Mr. McConnell present his proposed changes in writing to ease correction of the minutes.

Mr. Gaal moved to approve the minutes pending adjustments. The motion failed due to a lack of a second.

McConnell requested that he continue with discussion of his adjustments. McConnell went through several changes including some noting the order in which items are documented, member attendance and changes to members responsible for making motions. Upon completion by McConnell, Meagher noted that the January minutes should be approved to allow for the Board to continue with the administrative portion of the minutes.

**MOTION: Moved by Meagher and seconded by Lavene to approve the administrative portion of the January minutes.**

**Motion passed.**

**NO OBJECTIONS**

**MOTION: Moved by Foster and seconded by McConnell to record meeting minutes.**

**Motion failed. Meagher, Lavene, Gaal, Marchese against.**

Meagher moved to discuss March Board minutes. Foster indicated that Motion covering fees for Mr. Gaal at NCPERS should indicate that he abstained from voting. Mr. Robein read a section of the State Statute 11: 3363 which require that the Board shall cause to be kept a record of its meetings and proceedings. Minutes should record actions. Trustee positions should be stated where necessary.

**MOTION: Moved by Foster and seconded by Meagher to approve the March minutes subject to adjustments noted.**

**Motion passed.**

**NO OBJECTIONS**

**COMMUNICATIONS**

Received thank you notes from Roy Heck's family, Joseph Daire's family, Andrew Dufresne's family and Warren Martin's family.

**REFUND OF CONTRIBUTIONS**

Dustin Wedge is seeking a refund of his contributions.

**MOTION:** Moved by Gaal and seconded by Meagher to approve the refund of contributions to Mr. Wedge.

Motion passed.

**NO OBJECTIONS**

**CHANGE OF BENEFICIARY**

Ronald Brien, Albert Martineau, Leonard F. Sabel, Travis Stutson, John F. Hoolahan, Paul Girard Jr., Armand Bourdais have requested changes to their beneficiary forms.

**DROP WITHDRAWAL**

None

**NEW APPLICATIONS:**

None

**DROP APPLICATIONS:**

**Anthony C. Lonon**, new fund fire captain, age 57 with 21 years of service is seeking to enter DROP. Members of the Board reviewed the DROP calculations of Mr. Lonon

**MOTION:** Moved by Meagher and seconded by Gaal to place Mr. Lonon on DROP and approve the retirement benefit as calculated in accordance with Board policy and outlined on the calculation worksheet provided to members.

Foster offered a substitute motion.

**MOTION:** Moved by Foster and seconded by McConnell to approve a retirement benefit calculated at 2 ½% for all years of service until Mr. Lonon has beyond 12 years of service and has reached 50 years of age and 3 1/3% for years of service beyond 12 years of service and after 50 years of age.

A lengthy discussion followed on the benefit calculation and history of the interpretation. Foster and McConnell noted that the calculation of the benefit does not agree with their interpretation of State Statutes. Mr. Robein reviewed the Board's history on how the alternative interpretation was implemented by the Board, noting that in August 2008 the Board adopted a resolution on its interpretation on how the State Statutes would be implemented with respect to retirees at the Fund. Robein's discussion included comments on the doctrine of contemporaneous construction and the Fund's liberal interpretation of the statute. He also noted that the liberal interpretations were incorporated in longevity settlement calculations which were approved by the City.

Mr. McConnell noted that his vote in agreement with the application of the liberal interpretation of the statutes as outlined in the 2008 minutes was based upon a letter provided to the Board in 2008 by Board attorney Louis Robein. McConnell indicated that he was advised that it was appropriate to adopt the policy to calculate benefits in the more liberal interpretation granting a higher benefit because of liberal interpretations of the law the Board used in previous years. He commented that recently the Board's auditors, BRG and pension task force have noted that the Board's interpretation did not comport with the law as it is written. McConnell also notes that Board members were not provided with calculations of benefits at Board meetings before a vote to approve benefits until 2015. McConnell feels that in light of these issues the Board should immediately begin to approve benefit calculations which conform to the statutes as written.

Mr. Meagher asked Mr. McConnell if he knew how benefit calculations were done in 2008 and if he knew that he was voting on the liberal interpretation. McConnell indicated that he believes he knew how benefits are calculated but, he has never calculated a member's benefit for the fund. Mr. Meagher produced a job description for Mr. McConnell, who was employed by the pension Board since 2006 which stated in part that his job was to assist the Secretary Treasurer with pension calculations and to be familiar with all statutes. McConnell confirmed that the job description was his, but noted that he did not prepare a single retirement calculation for a member's pension and that Board employee Pam Meyer performed every benefit calculation while he was employed with the Fund. McConnell acknowledged that he did sit with candidates for retirement to review benefit calculations and provide counsel to prospective retirees.

Members moved to vote on the substitute motion.

**MOTION: Moved by Foster and seconded by McConnell to approve a retirement benefit calculated at 2 ½% for all years of service until Mr. Lonon has beyond 12 years of service and has reached 50 years of age and 3 1/3% for years of service beyond 12 years of service and after 50 years of age.**

**Motion failed. McConnell and Foster voted for. Gaal, Meagher, Lavene and Marchese voted against.**

A vote on the original motion was taken.

**MOTION:** Moved by Meagher and seconded by Gaal to place Mr. Lonon on DROP and approve the retirement benefit as calculated in accordance with Board policy adopted in 2008 and outlined on the calculation worksheet provided to members.

Motion passed. Meagher, Gaal, Marchese and Lavene voted for. McConnell and Foster voted against.

### **REPORTS OF DEATHS**

#### **Pensioners:**

None

#### **Widow:**

**Mrs. Claudette Klumpp:** Mrs. Klumpp passed away on April 6, 2015 at age 79. Her benefits began June 1, 2013.

**MOTION:** Moved by Marchese and seconded by Gaal to remove the above noted deceased widow from the pension rolls.

Motion passed.

**NO OBJECTIONS**

### **WIDOW'S APPLICATIONS**

**MOTION:** Moved by Gaal and seconded by Marchese to go into executive session to review medical documentation for widow's applications and reserve privacy rights to members for Service Connected Disability Pension applications and pending applications.

Motion passed.

**NO OBJECTIONS**

**MOTION:** Moved by Meagher and seconded by McConnell to come out of executive session to review medical documentation for widow's applications and reserve privacy rights to members for Service Connected Disability Pension applications and pending applications.

Motion passed.

**NO OBJECTIONS**

**MOTION:** Moved by Gaal and seconded by Marchese to go into executive session to review medical documentation and reserve privacy rights to members for Service Connected Disability Pension applications and pending applications.

Motion passed.

**NO OBJECTIONS**

**MOTION:** Moved by Meagher and seconded by McConnell to come out of executive session to review medical documentation and reserve privacy rights to members for Service Connected Disability Pension applications and pending applications.

Motion passed.

**NO OBJECTIONS**

Discussion followed on the application of Line of Duty benefits. Mr. Robein noted that widows would have to show that members suffered from heart and lung ailments during their service on the job to qualify for line of duty benefits. Members must demonstrate that cancer existed as late as five years after employment or prior to meet eligibility for a line of duty benefit. Board members reviewed medical information of all applicants in executive session.

**Mrs. Andrew Dufresne:** Mrs. Dufresne is making an application for a line of duty widow's benefit effective March 1, 2015.

**MOTION:** Moved by Meagher and seconded by Gaal to approve a non-duty death benefit as per R.S. 11:3378 effective March 1, 2015 and inform the applicant of the right to appeal the decision and provide additional medical information.

Motion passed.

**NO OBJECTIONS**

**Mrs. Louis Labasse:** Mrs. Labasse is making an application for a non-duty widow's benefit effective July 1, 2014.

**MOTION:** Moved by Gaal and seconded by Meagher to approve a non-duty death benefit as per R.S. 11:3378 effective July 1, 2014.

Motion passed.

**NO OBJECTIONS**

**Mrs. James Clement:** Mrs. Clement is making an application for a line of duty widow's benefit effective March 1, 2015.

**MOTION:** Moved by Marchese and seconded by Gaal to approve a non-duty death benefit as per R.S. 11:3378 and R.S. 33:2581 effective March 1, 2015 and inform the applicant of the right to appeal the decision and provide additional medical information.

Motion passed.

**NO OBJECTIONS**

**APPLICATIONS PENDING**

**Ernest W. Pollock, Jr.** : New Fund Fire Operator, age 56 with 33 years of service is submitting an application for a 50% Service Connected Disability Pension effective January 14, 2015.

**MOTION:** Moved by Meagher and seconded by Gaal to approve a 50% disability benefit pursuant to 11:3376B based upon medical evidence presented before the Board.

Foster offered a substitute motion.

**MOTION:** Moved by Foster and seconded by McConnell that, under RS 11:3376B, that Mr. Pollock be found to be totally, permanently physically or mentally disabled for service in New Orleans fire department by reason of service therein, but physically and mentally capable and able to do and perform work of any other reasonable kind or and that Mr. Pollock be placed on the pension roll, and order immediate payment in monthly installments to him from the pension and relief fund in a sum equal to one-half the monthly compensation allowed him as salary at the date of his retirement, and that, under RS 11:3376 F(2), If Mr. Pollock upon disability retirement pursuant to this Section, alternatively elects to receive benefits pursuant to R.S. 11:3384, that the amount of those benefits shall be 1.58 years at 3.33% and 26.7485 years at 2.5%.

Motion failed. Foster and McConnell voted for. Meagher, Gaal, Lavene and Marchese voted against.

Meagher moved to vote on the original motion.

**MOTION:** Moved by Meagher and seconded by Gaal to approve a 50% disability benefit pursuant to 11:3376B based upon medical evidence presented before the Board.

Motion passed. Meagher, Marchese, Lavene and Gaal voted for. McConnell and Foster voted against.

Discussion followed with Mr. Robein indicating that the Statutes require that the Board should determine whether the member should be retired as a disability. Mr. Robein read the statute covering the approval of a disability and answered several questions on the matter from members of the Board on the matter of disability benefit payments. He emphasized that the members are required to vote on a disability. Foster felt some members voted against a disability on his substitute motion. However Meagher indicated he and others voted against the substitute motion because of the add-on provisions of the calculation. Discussion followed on the ability to take a regular calculation of benefit under the disability section of the statute. Mr. Robein

explained that the Statutes allow member to elect to receive a greater benefit calculated under 11:3384 when years of service provide for same as defined under subsection F.

Members repeated both motions stated above with the same results.

McConnell requested that the record reflect that he and Foster are not opposed to the disability but is opposed to the way the benefit is calculated. He voted against disability motions because the benefit calculation is not included in the motion. He noted that the Board agreed by motion to include benefit calculations with each motion for disability.

Meagher noted that he voted against the substitute motion because it is not a vote on a disability only.

Afterward, discussion followed on whether motions on the benefit calculation require a 2/3rds vote since they are not based on a disability calculation. Discussion followed on whether the original motion passed as majority. Mr. Meagher asked the chair for clarification on the matter. Mr. Gaal indicated that the motion received 2/3 vote of seated members. Mr. Gaal cited Mason's manual of legislative procedures as supporting documentation. Mr. Foster disagreed with the decision based upon prior Board discussions which he noted determined that a quorum comprised of five members.

**Kenneth G. Prevost**- New Fund Firefighter, age 63 with 34 years of service is submitting an application for a 50% Service Connected Disability Pension effective January 14, 2015.

**MOTION:** Moved by Meagher and seconded by Lavene to approve a 50% disability benefit pursuant to 11:3376B based upon medical evidence presented before the Board.

Foster offered a substitute motion.

**MOTION:** Moved by Foster and seconded by McConnell that, under RS 11:3376B, that Mr. Prevost be found to be totally, permanently physically or mentally disabled for service in New Orleans fire department by reason of service therein, but physically and mentally capable and able to do and perform work of any other reasonable kind or and that Mr. Prevost be placed on the pension roll, and order immediate payment in monthly installments to him from the pension and relief fund in a sum equal to one-half the monthly compensation allowed him as salary at the date of his retirement, and that, under RS 11:3376 F(2), If Mr. Prevost upon disability retirement pursuant to this Section, alternatively elects to receive benefits pursuant to R.S. 11:3384, that the amount of those benefits shall be 9.63 years at 3.33% and 21.1982 years at 2.5%.



**Motion failed. Foster and McConnell voted for. Meagher, Gaal, Lavene and Marchese voted against.**

Meagher moved to vote on the original motion.

**MOTION: Moved by Meagher and seconded by Lavene to approve a 50% disability benefit pursuant to 11:3376B based upon medical evidence presented before the Board. Motion passed. Meagher, Marchese, Lavene and Gaal voted for. McConnell and Foster voted against.**

McConnell requested that the record reflect that he and Foster are not opposed to the disability but is opposed to the way the benefit is calculated. He voted against disability motions because the benefit calculation is not included in the motion.

**Gary Haydel-** New Fund Fire District Chief, age 60 with 36 years of service is submitting an application for a 50% Service Connected Disability Pension effective January 14, 2015.

**MOTION: Moved by Meagher and seconded by Lavene to approve a 50% disability benefit pursuant to 11:3376B.**

McConnell offered a substitute motion.

**MOTION: Moved by McConnell and seconded by Foster that, under RS 11:3376B, that Mr. Haydel be found to be totally, permanently physically or mentally disabled for service in New Orleans fire department by reason of service therein, but physically and mentally capable and able to do and perform work of any other reasonable kind or and that Mr. Haydel be placed on the pension roll, and order immediate payment in monthly installments to him from the pension and relief fund in a sum equal to one-half the monthly compensation allowed him as salary at the date of his retirement, and that, under RS 11:3376 F(2), if Mr. Haydel upon disability retirement pursuant to this Section, alternatively elects to receive benefits pursuant to R.S. 11:3384, that the amount of those benefits shall be 3.64 years at 3.33% and 26.3641 years at 2.5%.**

**Motion failed. Foster and McConnell voted for. Meagher, Gaal, Lavene and Marchese voted against.**

Meagher moved to vote on the original motion.

**MOTION: Moved by Meagher and seconded by Lavene to approve a 50% disability benefit pursuant to 11:3376B based upon medical evidence presented before the Board. Motion passed. Meagher, Marchese, Lavene and Gaal voted for. McConnell and Foster voted against.**

McConnell requested that the record reflect that he and Foster are not opposed to the disability but is opposed to the way the benefit is calculated. He voted against disability motions because the benefit calculation is not included in the motion. He noted that the Board, in a previous meeting, agreed by motion to include benefit calculations with each motion for disability. Mr. Meagher noted that members voting for the motion are following Board adopted policy implemented in 2008, which McConnell voted for at that time.

Mr. Meagher noted that he and members are following policy adopted by the Board in 2008.

Mr. Robein noted that members have a right to elect a greater benefit, with a form requesting same signed by each member seeking retirement today.

**MOTION: Motion by Meagher and seconded by Lavene to recognize the election of Mr. Pollock seeking disability benefit payment for the greater amount of the pension benefit as per subsection F as allowed under 11:3384 calculated in accordance with Board policy adopted in 2008.**

Foster offered a substitute motion.

**MOTION: Moved by Foster and seconded by McConnell to provide payment under the alternative amount and that the amount of those benefits shall be 1.58 years at 3.33% and 26.7485 years at 2.5%. Motion failed. McConnell and Foster voted for. Meagher, Gaal, Marchese and Lavene voted against.**

Meagher moved for consideration of the original motion.

**MOTION: Motion by Meagher and seconded by Lavene to recognize the election of Mr. Pollock seeking disability benefit payment for the greater amount of the pension benefit as per subsection F as allowed under 11:3384 calculated in accordance with Board policy adopted in 2008. Motion passed. Meagher, Gaal, Marchese and Lavene voted for. Foster and McConnell voted against.**

**MOTION: Motion by Meagher and seconded by Lavene to recognize the election of Mr. Prevost seeking disability benefit payment for the greater amount of the pension benefit as per subsection F as allowed under 11:3384 calculated in accordance with Board policy adopted in 2008.**

Foster offered a substitute motion.

**MOTION:** Moved by Foster and seconded by McConnell to provide payment under the alternative amount and that the amount of those benefits shall be 9.63 years at 3.33% and 21.1982 years at 2.5%.

Motion failed. McConnell and Foster voted for. Meagher, Gaal, Marchese and Lavene voted against.

Meagher moved for consideration of the original motion.

**MOTION:** Motion by Meagher and seconded by Lavene to recognize the election of Mr. Prevost seeking disability benefit payment for the greater amount of the pension benefit as per subsection F as allowed under 11:3384 calculated in accordance with Board policy adopted in 2008.

Motion passed. Meagher, Gaal, Marchese and Lavene voted for. Foster and McConnell voted against.

**MOTION:** Motion by Meagher and seconded by Lavene to recognize the election of Mr. Haydel seeking disability benefit payment for the greater amount of the pension benefit as per subsection F as allowed under 11:3384 calculated in accordance with Board policy adopted in 2008.

Foster offered a substitute motion.

**MOTION:** Moved by Foster and seconded by McConnell to provide payment under the alternative amount and that the amount of those benefits shall be 3.64 years at 3.33% and 26.3641 years at 2.5%.

Motion failed. McConnell and Foster voted for. Meagher, Gaal, Marchese and Lavene voted against.

Meagher moved for consideration of the original motion.

**MOTION:** Motion by Meagher and seconded by Lavene to recognize the election of Mr. Haydel seeking disability benefit payment for the greater amount of the pension benefit as per subsection F as allowed under 11:3384 calculated in accordance with Board policy adopted in 2008.

Motion passed. Meagher, Gaal, Marchese and Lavene voted for. Foster and McConnell voted against.

**Mrs. Patricia Hrivnak:** Application for a line of duty death benefits effective January 1, 2015. Mrs. Hrivnak was approved for a non-duty death benefit during the January meeting. The Board deferred action on the line of duty application. No additional medical information is available.

**MOTION:** Moved by Gaal and seconded by Marchese to deny the line of duty application.  
Motion passed. **NO OBJECTIONS**

**Mrs. Gary Thomas:** Mrs. Thomas' application for a Line of Duty Death benefit. The Fund sought additional medical information from headquarters. None was available.

**MOTION:** Moved by Gaal and seconded by Marchese to deny the line of duty application due to lack of sufficient medical information to support a line of duty death benefit.  
Motion passed. **NO OBJECTIONS**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**Board elections:** Mr. Mitchell reminded the Board that elected members terms end during August of 2015. Election planning should begin shortly. An election committee should be established. Meagher noted that all members will participate on the election committee. Discussion followed on election procedures, filing of nomination forms, posting election dates, etc.

**Troy Magee** pension assessment refund requires Board approval.

**MOTION:** Moved by Meagher and seconded by Gaal to approve the refund of pension assessments to the estate of Troy Magee.  
Motion passed. **NO OBJECTIONS**

Meagher noted during the discussion on Troy Magee, that the firefighter died without complete beneficiary forms. McConnell offered to have his staff contact firefighters directly who don't have all forms completed. Fund staff will provide a listing of current employees with missing

forms to McConnell. McConnell questioned options available to heirs in lieu of completion of a beneficiary form. None were deemed available other than a refund of contributions.

**Expense Committee:** Items for the 4<sup>th</sup> quarter 2014 and 1<sup>st</sup> quarter 2015 will be reviewed at the next meeting.

**Investment Consultant matter:** Bogdahn Group change in advisory contract matter arose when Joe Bogdahn, founder, transferred his ownership shares to Mike Welker, President of the firm, recently. Mitchell is seeking a motion to allow Mr. Meagher to acknowledge and approve of this change in ownership.

**MOTION:** Moved by Lavene and seconded by Gaal to allow Mr. Meagher to sign the consent form to the ownership change at the Bogdahn Group.

Motion passed.

**NO OBJECTIONS**

Mr. Gaal note that he would like the minutes to reflect that Mason law of legislative and county procedure states that vacant seats do not count as quorum.

**LEGAL:**

**Mischler et al v State of Louisiana et al:**  
**Torranto et al v City of New Orleans**

Toarranto was heard under Judge Cates. The Taranto claim is the same as Mischler but with fewer members. The Mischler case will be heard in Judge Jupiter's court on May 1, 2015.

**Longevity Litigation:** Hearing set for June 21, 2015 at 9 am.

**Funding Mandamus:** A hearing is set for May 4, 2015.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 2:15 pm.

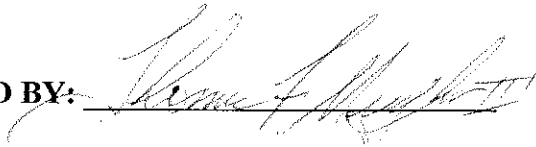
**TIMELY FILING OF APPLICATIONS:**

All Members applying for Pension, DROP or PLOP must do so 45 days in advance of the scheduled retirement date. All medical documentation for disability applications must be in the administrative office 45 days prior to the scheduled retirement date. Failure to comply with the Fund's rules will cause a delay in the Board taking action and will probably force an extension beyond the member's desired retirement date.

The administrative office will continue to process all paperwork in a friendly, orderly, and timely fashion. We thank all applying members for their continued cooperation. This will enable the Administrative Office and the Board of Trustees to perform their jobs more efficiently.

Members who have recently changed their address or marital status and have not updated their beneficiary form should do so at this time. Please contact the Pension Office during the hours of 10:00 am to 2:00 pm for beneficiary verifications. Your cooperation is appreciated.

APPROVED BY:



DATE:

6/3/15