

NEW ORLEANS FIRE FIGHTER'S PENSION AND RELIEF FUND

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:

**December 14, 2016
3520 General DeGaulle
Suite 3001
New Orleans, Louisiana 70130**

The following members of the Board of Trustees were present: Martin Gaal, Thomas Meagher, Angelo Marchese, Tim McConnell, Nick Lavene, Norman Foster and Derrick Muse.

**Also present,
Pam Meyer
Paul Mitchell
Maria Cangemi, Board Attorney
Joey Tufaro, Fire Flix
Jon Breth, Bogdahn Group (via phone)
Nicholas Felton, President Local 632
Clifton Moore, Vice President Local 632
Damien Sylve, firefighter
Michele Conway, Mayor's office**

A quorum being present, Board President Martin Gaal called the meeting to order at 9:17 a.m. Mr. Meagher lead the pledge of allegiance and a moment of silence for fallen firefighters and first responders.

Mr. Meagher noted that Joey Tufaro was on hand to provide the Board with an update on the Fire Flix investments. He requested a motion to take items out of order. He noted that Jon Breth would be available via telephone.

MOTION: Moved by Gaal and seconded by Meagher to take the Tufaro presentation out of order.

Motion passed.

NO OBJECTIONS

Joe Tufaro appeared before the Board to discuss the three loans, the proceeds of which were used to make movies produced by him. Joe Breth attended this discussion via telephone.

Mr. Tufaro discussed that two of the three movies are being sold by Alchemy Sales. John Breth and Joe spoke regarding Alchemy, which has recently filed for Chapter 7 bankruptcy liquidation. Alchemy has the domestic rights to sell the movie for 10 years. The two movies are The Culling (which owes \$90,000 to the group, of which \$30,000-40,000 will be coming to the Fund) and Tell Tale Heart (delivered 45 days before bankruptcy filing). Tufaro believes the company has switched the bankruptcy filing to Chapter 11 reorganization.

The third movie is Dirty Movie 2, a National Lampoon movie.

Discussion followed regarding the details of the loans. Two loans originated in the second half of 2011 and the third in May 2012. The principal only amount outstanding on the loans total \$705,000, which reflects prior receipts of approximately \$73,000. Interest rates on the notes escalate to 18% per year.

Mr. Tufaro noted that going forward it will be his strategy to package the three movies, which he believes would make them easier to sell, particularly since they are of different genres.

Foster questioned Tufaro about a statement he made at an earlier meeting regarding making an offer to the Trustees to pay off the notes. Foster also asked Tufaro how he could give away the Fund's rights to distribute the movie in the U.S. to Alchemy. Tufaro noted the Fund made loans to produce the movie and it was his responsibility to distribute and sell the movies. Tufaro noted that he has a financial investment equal to the Fund in each of the movies as well.

Tufaro discussed that he will present a buy-out offer to the Trustees by the January 11 meeting. He noted that because of the bankruptcy, the offer may not be significant. Foster mentioned that the contracts contain payment terms that he would like adopted. John Breth also requested that Tufaro provide the Trustees with all information he has on the status of the bankruptcy of Alchemy, the names of his legal team and his plans to deal with the bankruptcy and sale of the movies. Tufaro noted that he does not have an attorney for this bankruptcy. He felt that it would not be cost effective to engage an attorney at this time. He noted that he has another movie and other partners involved in the bankruptcy and will be able to monitor the progress of the bankruptcy that way.

Foster requested that Bob Tarcza review the loans and meet with the Board to discuss our collection options.

Tufaro and Jon Breth left the meeting.

COMMUNICATIONS

None

REVIEW AND ACCEPT MINUTES

Mr. Meagher noted that four sets of minutes require approval at this meeting. The minutes were forwarded to each member for review prior to the meeting.

MOTION: Moved by Meagher and seconded by Gaal to approve the minutes of the November 9, 2016 Board meeting.

Motion passed. NO OBJECTIONS

MOTION: Moved by Meagher and seconded by Marchese to approve the minutes of the October 12, 2016 Board meeting.

Motion passed. NO OBJECTIONS

MOTION: Moved by Meagher and seconded by Marchese to approve the minutes of the September 14, 2016 Board meeting.

Motion passed. NO OBJECTIONS

MOTION: Moved by Meagher and seconded by Gaal to approve the minutes of the November 7, 2016 Special Board meeting.

Motion passed. NO OBJECTIONS

REFUND OF CONTRIBUTIONS

MOTION: Moved by Meagher and seconded by Lavene to approve refund of contributions to Mr. Harrison, Martin, Pierre and Lunz.

Motion passed. NO OBJECTIONS

CHANGE OF BENEFICIARY

Scott J. Smith submitted a beneficiary form.

R.S. 11:3376 DISABILITY APPLICATIONS

None

ALTERNATIVE ELECTION AS PER R.S.11:3376 F (2)

None

REGULAR RETIREMENT APPLICANTS:

None

DROP APPLICATIONS:

None

REPORTS OF DEATHS

Pensioners:

None

Widows:

None

WIDOW'S APPLICATIONS

Mrs. Shryel B. Billiot (Peter) is applying for a Non Duty Widow's benefit effective December 1, 2016 and a child's benefit application for Sophia Billot (granddaughter).

MOTION: Moved by Gaal and seconded by Marchese to approve a Non Duty Death Benefit effective December 1, 2016 for Mrs. Billiot.

Motion passed.

NO OBJECTIONS

MOTION: Moved by Gaal and seconded by Meagher to approve a Dependent Benefit effective December 1, 2016 for Sophie Billiot.

Motion passed.

NO OBJECTIONS

Mrs. Robin Brokmeier (Charles) is applying for a Line of Duty Widow's benefit effective November 1, 2016.

MOTION: Moved by Meagher and seconded by Lavene to approve a Non Duty Death Benefit effective November 1, 2016 for Mrs. Brokmeier and inform the applicant that the decision of the Board can be appealed.

Motion passed.

NO OBJECTIONS

APPLICATIONS PENDING

MOTION: Moved by Meagher and seconded by Lavene to go into executive session to review medical documentation and reserve privacy rights to members applying for a Service Connected Disability Pension and pending applications.

Motion passed.

NO OBJECTIONS

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

Motion passed.

NO OBJECTIONS

Damien C. Sylve: New Fund Fire Captain, age 40, with 18 years of service is applying for a 50% Service Connected Disability Pension effective September 30, 2016.

Mr. Meagher noted that last month the board deferred action on this applicant. The applicant could not schedule a visit with the Board's doctor. The Board noted that his application is effective September 30, 2016. Foster felt the Statutes requires that benefit payments begin on the retirement date which is the date of approval of the retirement application by the Board. Meagher noted that while the statutes say "retirement date" it does not define retirement date as date of approval by the Board. Meagher noted that this member had a valid reason for delay. His medical records indicated that he was not fit for duty last month. The member is eligible for a 50% disability calculated on his final month's pay. The calculation was not in the file.

MOTION: Moved by Meagher and seconded by Marchese to approve a 50% disability effective September 30, 2016. Substitute motion to approve a 50% disability effective December 14, 2016 was made by McConnell and seconded by Foster. The motion also allows the member of his right to appeal the decision.

Substitute motion passed. Gaal opposed.

Keith Noya: Appeals hearing report. Mr. Noya appealed the Board's decision regarding his effective date of retirement. Board members reviewed the recommendation of the appeals committee to deny the appeal. Norman questioned the significance of the reference to the CEA's provisions regarding the effective date of the SEB offset noting that the second paragraph of the recommendation is not necessary. McConnell discussed that the Fact section of the Appeals should include information regarding the motivation of the appellant regarding his appeal. McConnell openly discussed several substitute motions for deferral, some of which would require rewording the Committee's recommendation. Other members sought less a detailed motion to defer until next month.

MOTION: Moved by Meagher and seconded by Gaal to deny the appellant's request. McConnell moved and Foster seconded to defer a decision on the appeal until the next meeting. Foster and McConnell are seeking clarity of the language in the appeal committee report which should be discussed with Mr. Robein. Substitute motion passed. Gaal objected.

Joseph Segretto: Appeals hearing report. Mr. Segretto appealed the Board's decision regarding his effective date of retirement. Board members reviewed the recommendations of the appeals committee to deny the appeal.

MOTION: Moved by Foster and seconded by Muse to accept the committee's recommendation and deny the appellant's request.

Motion passed.

NO OBJECTIONS

Mark Shubert: Appeals hearing report. Mr. Shubert appealed the Board's decision regarding his effective date of retirement. Board members reviewed the recommendations of the appeals committee to deny the appeal.

MOTION: Moved by Foster and seconded by Muse to accept the committee recommendation and deny the appellant's request.

Motion passed.

NO OBJECTIONS

MOTION: Moved by Foster and seconded by McConnell to reconsider an earlier motion on Noya.

Motion passed.

NO OBJECTIONS

Keith Noya: Appeals hearing report. Mr. Noya appealed the Board's decision regarding his effective date of retirement. Board members reviewed the recommendations of the appeals committee to deny the appeal.

MOTION: Moved by Foster and seconded by McConnell to accept the Committee's recommendation to deny the appellant's request.

Motion passed. Marchese objected.

FINANCIAL INFORMATION

Board members were provided with key financial revenue and disbursement figures for the New and Old system for October.

OLD BUSINESS:

District Chiefs annual days worked adjustment Meagher noted that this matter was introduced at a prior meeting. Mr. Savelle, a district chief, wrote the Fund indicating that the Civil Service Commission amended Rule IV Section 13 on October 20, 2014. That amendment, according to Mr. Savelle, resulted in Chiefs having their annual days worked reduced by 10 days. Meagher noted that the Fund would like the Board to approve a motion to recognize the change in the number of annual days worked for Chiefs from 172 days to 162 days. This change would affect a member's conversion of sick and annual leave days to service credits. Meagher also suggested that the motion include an effective date. Questions followed regarding the rule change effect on a Chief's work schedule versus his pay. McConnell agreed that Chiefs pay and work schedule were reduced by 10 days as a result of Civil service action. Meagher moved to adopt the 162 day annual schedule. Following discussion by Foster and Muse to determine the actual effect of the Civil Service Rules change, Meagher withdrew his motion. Action was delayed on this matter until further research to determine if in fact the Chief's work schedule was reduced by 10 days and confirm Civil Service action.

Update on request to access to firefighter payroll data from Finance. Mitchell noted that this request would provide the same access to firefighter payroll information that NOMERS receives for its members from Finance. Foster noted that he thought the information was provided and that the delay was due to the Controller's absence from work for personal reasons. He expects to resolve the matter.

Mitchell also requested that monthly appropriation be delivered to the Fund via wire transfers. Foster noted that City auditors were opposed to that idea.

SEB information request update The Fund has requested that McConnell provide SEB payment information to them. McConnell was provided with member waiver forms earlier this year. He noted that he has not heard from the City Attorney regarding his ability to release any SEB information to us. Mitchell noted that those delays could impede our ability to make SEB offset adjustments to members' payments. The Fund has sent letters to member who staff believes are impacted by the SEB policy.

Mitchell also sought to confirm that the monthly appropriation would be delivered by Friday. He reminded Foster and McConnell that the Fund may not have sufficient cash to meet payroll if the appropriation is delayed in the Old Fund.

Don Houston Mitchell noted that Mr. Houston has requested an appeal hearing regarding his disability application. Meagher noted that all Board members are welcome to attend the hearing. Meagher, Gaal and Lavene agreed to participate in the hearing. A date will be coordinated with legal, staff and member.

NEW BUSINESS:

Pending offer on Kreate Building Meagher noted that there are two offers on the Kreate building in Austin. The general manager is reviewing both offers. Additional information will be made available in January.

Employee Compensation Meagher noted to the Board that at its December meeting NOMERS has declined to accept the Fund's three employees into their system and declined to seek permission from the City Council to allow the Fund's three employees into NOMERS. He is ready to propose a motion to request that Mike Conefry draw up a defined benefit plan identical to NOMERS that the Fund could approve for its three employees. Foster indicated that NOMERS did not deny membership to the Fund's three employees and indicated that no decision was made due to the fact that the Fund did not respond to NOMERS request for additional information in writing. Meagher reminded Foster that he personally responded to NOMERS' request for additional information at their meeting this month, informing them that no additional information was available and that the information NOMERS was seeking was already provided to them. Meagher reminded Foster that at that same meeting he attended he witnessed a motion by the Chairman to accept the Fund employees fail to get a second. A subsequent motion to seek City council approval also failed and that Foster did not vote to support the motion. No mention of a lack of response was made at that time by Foster or any other member. Meagher also noted that the first request to join NOMERS was made in January of 2015. NOMERS has delayed the decision until December 2016. Meagher noted that he City attorney and NOMERS' attorney has advised in writing that the Fund has the authority to set up its own plan which is the basis for this motion. Muse asked if the employees are participating in any type of plan currently. Mitchell noted that member contribute 3% of the salary which is matched by the Fund. He noted that he expected the current plan to be eliminated once the defined benefit plan is adopted. McConnell wanted full details on the current plan. Muse requested full financial cost of the proposed plan.

MOTION: Moved by Meagher and seconded by Marchese to request that the Board actuary and attorney draft a defined benefit plan similar to NOMERS for review and discussion at the next meeting.

Motion passed. Foster objected.

LEGAL:

Mr. Robein led the discussion on the following:

- Motion for a new trial on the alternative interpretation was granted for December 15, 2016 seeking clarification on the reach of retirees affected by the decision. Counsel has suggested the reach extend no more than three years from the date of the filing of the suit which is November 2015.

- A motion to dismiss all claims against all trustees in the matters of the Old Fund reserves and the 2012 funding mandamus litigation is being processed by AIG attorneys.
- The millage was successful.
- There has been no activity in the Mischler matter. Abatement period extends for three years after the last legal action.
- Answers have been filed in the Lakewood matter. Depositions are expected. Case could be prolonged as the plaintiff attorney, who is an elected State representative, has requested a delay.

ADJOURNMENT

There being no further business the meeting adjourned.

TIMELY FILING OF APPLICATIONS:

All Members applying for retirement, 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. 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: 1/12/17