

# 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:**

**January 11, 2017  
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, Norman Foster and Derrick Muse. Nick Lavene was absent**

**Also present,  
Pam Meyer  
Paul Mitchell  
Kenny Prevost, retired firefighter  
Nicholas Felton, President Local 632  
Michele Conway, Mayor's office  
Wayne Collongues, active firefighter**

**A quorum being present, Board President Martin Gaal called the meeting to order at 10:43 a.m.**

## **COMMUNICATIONS**

None

## **REVIEW AND ACCEPT MINUTES**

Gaal noted that a correction to the widow's application was necessary. Mitchell has posted the correction to the widow's application.

Foster noted that the minutes referred to a letter from the City Attorney that he believes the letter was from NOMERS tax attorney. Norman noted that he spoke to NORMERS' tax attorney, who indicated that her memorandum did not intend to give advice to the New Orleans firefighters' retirement system. Meagher noted that the memorandum referred to in the minutes did come from the City Attorney's office and included an opinion from NOMERS' attorney.

**MOTION: Moved by Meagher and seconded by Gaal to approve the minutes of the December 14, 2016 Board meeting with correction.**

**Motion passed.**

**NO OBJECTIONS**

**REFUND OF CONTRIBUTIONS**

None

**CHANGE OF BENEFICIARY**

Wilmont R. Shows and Wilfred Argeanton,, Jr. submitted beneficiary forms.

**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:**

**Vincent J. Sortino** died on January 4, 2017 at the age of 76, leaving a widow and no minor children. He entered the department on February 19, 1968 and retired on June 17, 1988. Mr. Sortino spent 28 years on pension.

**Widow:**

Linda D. Nunez died on December 2, 2016 at the age of 75. Her benefits began on July 1, 1992. She enjoyed benefits for 24 years.

**MOTION: Moved by Meagher and seconded by Marchese to remove the above noted members and widow from the rolls. Motion passed.** **NO OBJECTIONS**

**WIDOW'S APPLICATIONS**

None

**APPLICATIONS PENDING**

**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. He is seeking to appeal the effective date of the disability. His calculation sheet was provided to the members as requested.

**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, notified the Fund that his research indicated that the formula used by the Fund does not require adjustment.

**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 the City's controller will resolve this matter shortly. Mitchell noted that the Fund is seeking pensionable salary info from the City.

**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. He expects info in a week or so.

**NEW BUSINESS:**

**Approval of alternative interpretation adjustments:** About 300 members, including active and retired, are subject to the alternative interpretation adjustment. Mitchell and Meagher met with Foster and McConnell prior to the Board meeting to review the method for the alternative interpretation adjustment calculations.

Robein noted that a suspensive appeal has been granted by the Civil District Court judge. The City has appealed the suspensive appeal decision. Despite the suspensive appeal, the Fund will move forward with the deductions, as refunds are easier to make to members should the appeal process work in the Fund's favor.

Foster noted that Mr. Robein should discuss the scope of the judgment with the City Attorney. Legal counsel has suggested that the Board move to implement the adjustments as currently determined. Suggestions were offered that staff should set aside the \$ being adjusted.

**MOTION:** Moved by Meagher and seconded by Gaal to implement the decision of the Judge in the alternative interpretation matter effective with the January 1, 2017 benefit payments.  
Motion passed. **NO OBJECTIONS**

**NCPERS Conference** The annual NCPERS conference will be held in Florida. Board members and staff regularly attend this public employee pension conference.

**MOTION:** Moved by Meagher and seconded by Gaal to approve attendance to the NCPERS conference for Board member and staff.  
Motion passed. **NO OBJECTIONS**

**Payment of excess leave for personnel** The Fund has annually provided staff the opportunity to cash out any unused sick and annual leave in excess of 10 days.

**MOTION:** Moved by Gaal and seconded by Marchese to approve the payment of excess sick and annual leave in excess of 14 days to staff members.  
Motion passed. **NO OBJECTIONS**

**Comments from the Secretary Treasurer** Mr. Meagher read the following:

I feel obligated as a Trustee and more importantly, as a member of the New Orleans Firefighters' Pension and Relief Fund, to make this statement and have it entered into the record. I do so reserving all rights under the law, especially under the pending litigation which I address here.

The court-ordered recalculation of benefits which will take place effective January 1, 2017 is a direct result of the actions taken on Wednesday, August 6, 2008 to act upon and implement legislative acts passed effective July 15, 2008. A motion was then passed without objection by the previous Board. Board Trustees, at that time included Richard Hampton, William Carrouche', Keith Noya, Darrell Klumpp, Terry Hampton, Nicholas Felton, Alan Melancon, and fellow Elected Trustee, Tim McConnell.

This action began eight years of pension benefits administration affecting all members. Now, you, City-Appointed Trustee McConnell, have sued the current Trustees to have this benefits interpretation declared illegal! For the last eight years, members have based the financial future for themselves, their spouse, and their families on decisions that did not follow or track statutes approved by State Legislators. The Board's application of the Statutes was questioned by members at Union meetings and through personal conversations with trustees. At that time, Chief McConnell, you and the other trustees stood behind the motion that you approved to amend or expand upon the legislative act. You brought a lawsuit against the past and present Board to fix what you now call a "wrong" that you helped perpetrate. I want you to know that I have spoken with hundreds of members who will be affected by your past and present actions. Some of these members will suffer tremendous hardships due to the fact that they are living on a fixed income and because of injuries and age have no means to supplement these cuts.

Your other actions over the last several years require noting. In addition to the so called "Alternative Interpretation" litigation you initiated, you have

- Failed to support the Board in its efforts to secure the appropriate ARC payments due the Fund. This inaction alone may have cost the Fund over \$150 million in assets after factoring in potential investment returns;
- Participated and supported an investment program that may have been the worst in the country;
- Succeeded in passing legislation reducing accrual rates for members of the Fund;
- Caused pension benefits for members to fall as much as 20% or more below other firefighters in this State;
- Failed to provide the Fund with information necessary to implement new SEB offsets initiated by you; and
- Abetted and mislead the OIG in his recent report on the Fund. You participated in this investigation without notifying the Board or affected members on Disability Pension approved by the Board, which included you. You then failed to make correct note of the glaring inaccuracies and wild accusations contained in the OIG's report and related presentations.

In 2008, you were elected as a Trustee to this Board to protect the Fund and the members of the NOFFPF. But your past and present actions have done just the opposite. As I have already noted, you knowingly supported the Alternative Interpretation, but now sue your fellow former and current Trustees to "correct" what you actively initiated and implemented.

In 2013, the members of the Fund showed their disappointment and distrust in you and the other Trustees by replacing all the members of that Board. You are the only member reappointed as Trustee by Mayor Mitch Landrieu. In light of the lawsuit you initiated against the policy that you helped adopt in 2008, which was found contrary to legislative authority, and because your failure to be a loyal fiduciary of the Fund, the members of NOFFPF have no confidence or trust in you. For this reason, you should step down from your position as Trustee to the New Orleans Firefighters' Pension and Relief Fund, effective immediately.

McConnell responded that a majority of the statement is untrue and most of the issues were debated in Board meetings several times. He requested a copy of the statement. He noted that he offered a 3 1/3 accrual rate. Meagher responded with the 3 1/3 offered also eliminated the longevity payment which was deemed unfair to all retired members.

### **LEGAL:**

Mr. Robein led the discussion on the following:

- Meagher and Robein noted that several active members have asked the Fund to consider giving active members the opportunity to revoke their DROP election as a result of the recent court decision. Active members have noted that they would not have entered DROP if they were subject to the calculations determined under the recent District Court's decision. Member would have to pay employee contributions for periods not in DROP. Members do not have the authority to participate in DROP twice. The proposal being considered would undo the DROP completely and start DROP anew. Robein noted that the CEA or Board regulation can accomplish this task. Meagher requested that Mr. Robein research the legality of revoking DROP before the Board approves such a decision.
- Motion for a new trial on the alternative interpretation was heard on December 15, 2016 seeking clarification on the reach of retirees affected by the decision. A new trial was denied, with the Judge noting that her decision was clear. The Judge has agreed to a suspensive appeal. Robein noted that the Fund has elected to move forward with implementing the judgment. The decision of the District Court will be appealed by the Fund.
- 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 City attorneys, except for pending claim for alternative interpretation and SEB offsets.
- The District Court upheld the Fund's position on SEB offsets. The City can appeal the decision.

- 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. Two previous motions to dismiss claims against the Fund and Trustees will be heard on January 20, 2017.
- There is nothing pending versus the OIG. Mr. Schwartz filed a complaint against our actuary. Mr. Conefry has responded.
- The millage was successful; as such a motion to allow Fund employees to act a disbursing agent for the next 12 years was posed.

**MOTION: Moved by Meager and seconded by Muse to allow Fund employees to continue as disbursing agent for the longevity payments for the next 12 years.**

**Motion passed.**

**NO OBJECTIONS**

Gaal reminded members that the LATEC conference will be held and is open to Board members. He noted that he will not need a room. Discussions followed on LATEC board membership.

**MOTION: To approve attendance to the LATEC conference for Board members and staff.**

**Motion passed.**

**NO OBJECTIONS**

### **ADJOURNMENT**

There being no further business the meeting adjourned at 11:45.

### **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: Thomas S. [Signature] Date: 02/10/17