

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

M E M O R A N D U M

TO: Gloria Johnson, Retirement Board Secretary
FROM: James T. Walker, Assistant City Attorney
RE: Amendment to Board Rule 9 (Application for Benefits)
DATE: February 6, 2015

At the Retirement Board's last meeting in January, it directed preparation of draft amendment to its Rules of Procedure providing for email notice of Board proceedings to benefit applicants. With this in mind, and following a series of discussions with you on the subject, a draft amendatory proposal is now prepared in the form of correspondence addressed formally to Mr. Perona as Board Chair. Such letter is attached herewith. Please put a copy in each Board member's agenda packet. If you have any remaining questions or concerns before so doing, please let me hear from you as convenience presents.

s/ James T. Walker

James T. Walker, Esq.
Assistant City Attorney

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Attachment

cc: Robert V. Schwerer, City Attorney

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Tom Perona, Chair, Fort Pierce Retirement Board
FROM: James T. Walker, Assistant City Attorney
SUBJECT: Amendment to Board Rule 9 (Application for Benefits)
DATE: February 6, 2015

Please recall that at its last regular meeting of 1/15/15 the Retirement Board directed preparation of an amendment to its Rules of Procedure providing for service by e-mail to benefit applicants. A proposed amendment to Rule 9 (Application for Benefits) is therefore offered in what follows for the purpose of implementing the Board's request:

Rule 9. Application for Benefits.

Section (a). Application. Any employee of a participating employer or member of the City of Fort Pierce Retirement and Benefit System who seeks benefits under Chapter 13 (Pensions and retirement) of the Code of Ordinances for the City of Fort Pierce may make written application therefore, through the participating employer or such employer's designee, on a form prescribed by the BOARD. Such application form shall include the following Section:

Service by e-mail. Notices, documents and other written communications sent to you in connection with this application may be sent by e-mail to your primary e-mail account and to a designated secondary account, at your election. If you would prefer to receive notices by e-mail, please designate those addresses as follows:

- i. Primary e-mail account. _____.
- ii. Secondary e-mail account _____ . If, hereafter, there is a change in either the primary or secondary address or either or both become inoperative, you must immediately notify the retirement system so that notices may thereafter be sent to one or more replacement addresses or by regular mail as necessary. Please initial here _____ so as to show your understanding of this requirement.

- iii. I would prefer to receive notices by regular mail: (initial here if that is your preference.)

When application is made for disability retirement the Secretary/Treasurer shall refer the applicant to a physician of the applicant's choice and at the applicant's expense for a report to be addressed to the BOARD in accordance with Code Section 13-36(7). Upon receipt of such report, the Secretary/Treasurer shall then refer the applicant to a physician selected by the Secretary/Treasurer from a list approved by the BOARD, with such examination to be paid for by the BOARD. When the reports of both physicians are received and the application is otherwise complete, the application shall then be referred to the BOARD for a hearing upon notice.

Section (b). Notice. If the form is complete, the Secretary/Treasurer shall schedule a public hearing before the BOARD on such benefit application and shall give the applicant written notice of said public hearing at least fifteen (15) days in advance, by regular mail or email. The notice shall include this highlighted statement: ***"A copy of the Rules of Procedures for the Retirement BOARD may be obtained upon request from the City of Fort Pierce Department of Finance."*** The notice shall also include the following statement in compliance with Fla. Stat. §286.0105 ***"In the event a decision is made to appeal any ruling or order of the BOARD, a record of the proceedings would be needed for any such appeal, for that purpose, you may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which any such appeal was to be based."*** Further the notice shall state that the applicant may be represented by counsel, may present relevant evidence, and will be given opportunity to cross-examine witnesses.

Section (c). Subsequent Proceedings. Notification of subsequent proceedings provided for by these rules shall be by regular mail or email, at least seven (7) days in advance of the BOARD's meeting.

Section (d). Continuance. Any party may request continuance of a scheduled hearing, prior to the hearing, in the event circumstances arise so as to constitute good cause for postponement of a hearing. Such party shall file a written request for continuance or postponement with the Secretary/Treasurer. The request must be made within a reasonable time following the date the party became aware of the circumstances which form the basis of the request. The request must specify the justifying circumstances with particularity. In the event the Secretary/Treasurer agrees with the request, the Secretary/Treasurer shall reschedule the hearing. In the event the Secretary/Treasurer disagrees with the request, there shall be immediately scheduled a hearing before the Board Chair or the Chair's designee, with notice to all parties. Present at the hearing shall be the Secretary/Treasurer, and counsel for the Board. After hearing both sides, the Chair or the Chair's designee shall determine whether there is good cause for the postponement. The request will then be either granted or denied.

Section (e). Service by Electronic Mail (e-mail). All documents and written communications required or permitted to be served on the applicant under these rules may be served by e-mail, if the Applicant so elects in writing, whether in the original Application or otherwise, as follows:

- (i) Service to the applicant shall be directed to the applicant through each designated e-mail address in the application, or otherwise in writing.
- (ii) Service of a document by e-mail is made by an e-mail sent to all addresses designated by the applicant with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk. The sender will maintain a receipt/proof of receipt of the electronic mailing.
- (iii) All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words "SERVICE OF RETIREMENT-RELATED DOCUMENT", followed by the case number or other identifying information for the proceeding in which the documents are being served.
- (iv) The body e-mail must identify the City of Fort Pierce, the case style and the senders name and telephone number.
- (v) Any document served by e-mail maybe signed by any of the "/s/," "/s," or "s/" formats, as long as the original filed document is signed in completed form.
- (vi) Any e-mail which, because of its length, must be broken down and sent in two or more installments shall be sequentially numbered on the subject line.

s/ James T. Walker

James T. Walker, Esq.
Assistant City Attorney

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cc: Robert V. Schwerer, City Attorney