

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016**

Summarized Minutes of the regular meeting of the City of Fort Pierce Retirement and Benefit System, September 15, 2016 at 2:00 p.m., in the 2nd Floor Conference Room at City Hall.

Present:

Commissioner Tom Perona, Chairperson	City Commission Member
Keith Stephens, Vice -Chairperson	U.A. General Manager
Commissioner Reginald Sessions	City Commission Member
Johnna Morris	Director of Finance
Rodney Nieves	Police Officer Member
Nina Penick	U.A. Board Appointee

Attorney Jim Walker	Assistant City Attorney, Advisory
Christina Paz	Retirement Clerk

Absent:

Caleta Scott	General Member
--------------	----------------

Recording:

Queen Thompkins	Executive Assistant to the Director of Finance
-----------------	--

ITEM NO. 1 & 2 ~ ROLL CALL

Comm. Tom Perona called the meeting to order at 2:00 p.m., the first item on the agenda being the “Roll Call”.

ITEM NO. 3 ~ COMMENTS FROM THE PUBLIC

Comm. Perona, the next item on the agenda was comments from the public. There were no comments from the public.

ITEM NO. 4 ~ APPROVAL OF SUMMARIZED MINUTES OF JULY 21, 2016.

Comm. Perona, the next item was the approval of the summarized minutes of August 18, 2016 and asked if there was a motion to approve the minutes.

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016**

A motion was made by Comm. Reginald Sessions and seconded by Mr. Keith Stephens to approve the summarized minutes of August 18, 2016.

All those in favor of the motion signified by saying aye. A poll was done of each Board member. There was no opposition and the motion was carried unanimously.

ITEM NO. 5 ~ ATTORNEY'S REPORT

Attorney Jim Walker said at the Board's last meeting the retirement application of Robert Creswell was approved. Subsequently, the counsel for Mr. Creswell filed a request for rehearing. Due to vacation and other personal matters he requested that the petition be presented to the Board at its November meeting. There is discussion later in this meeting about Code Section 13-27. Such Section may figure in the request for a brief hearing it is understood that such discussion of Section 13-27 which takes place here today would be strictly out of the context of any pending matter relating to application of that Section. Mr. Walker said he has no other matters to cover other than what appears on the agenda. He said he would be happy to cover any questions.

Comm. Perona said this doesn't happen often and he asked Mr. Walker if he could meet with him concerning the procedures to make sure things are done accordingly because there is representation the Board needs to do its due diligence to make sure to avail all opportunities.

Mr. Walker said yes they can meet.

ITEM NO. 6 ~ PUBLIC HEARING ON BENEFITS APPLICATIONS

Comm. Perona opened up the public hearing for comments on the request for retirement from Bernice Pressley with 17 years of service with the City of Fort Pierce Police Department. He asked if there was anyone here who would like to publicly comment on this request. Seeing none, Comm. Perona closed the public hearing. Comm. Perona opened up the matter for the Board. **A motion was made Comm. Sessions and seconded by Ms. Morris to approve the request for retirement from Bernice Pressley.** Comm. Perona asked for any questions or comments on this request before the motion was called. **All those in favor of the motion signified by saying aye. A poll was done of each Board member. There was no opposition and the motion was carried unanimously.**

ITEM NO. 7 ~ OLD BUSINESS

SECOND READING OF SUNSHINE RULE 8

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016**

Comm. Perona said we have a second reading on Sunshine Rule 8. If it is adopted today, it becomes part of the Board's rules and regulations. He asked if there were any questions.

Ms. Nina Penick said she had a question for Mr. Walker. She said since she worked in preparing these workups, does she needs to discuss this with her own staff in order to prepare the retirement workup.

Mr. Walker said the discussion to which Ms. Penick is referring to relates to matters leading up to completion of the application. This rule is intended to reach communications once the application has been completed and is pending for hearing.

Ms. Penick thanked Mr. Walker for the clarification.

Comm. Perona asked if there were any more questions for clarification. There being none, he thanked Mr. Walker for preparing the second reading on Sunshine Rule 8. **Comm. Perona** asked that a motion be made to adopt the Sunshine Rule 8. **A motion was made Comm. Sessions and seconded by Ms. Penick to approve the adoption of Sunshine Rule 8. All those in favor of the motion signified by saying aye. A poll was done of each Board member. There was no opposition and the motion was carried unanimously.**

Comm. Perona said to Mr. Walker the intent of this is to basically use much caution and try to avoid any type of confrontation or any type of communication with someone who is definitely going to appeal or question. Anything that comes before the Board prior to that gives you an out that says it's against the regulations for me to be able to speak with you. You are invited to come to the meetings to ask any questions you want at the right time to be able to get your answers and not individually through each of the Board members.

Mr. Walker said this rule is based on Jennings vs Dade County; a 3rd District case which invalidated quasi-judicial action where the trier fact had communicated with other third party individuals outside the hearing and the Court found that those communications prejudice the application. However, there is a way to cure any such prejudice and the City Commissioners having frequent cause to discuss such matters with constituents and the like have adopted an Ordinance which purges any resulting prejudice by providing for disclosure of such communications in the context of the meeting and that is what this rule would do for our Board and any such quasi-judicial meetings.

ITEM NO. 8 ~NEW BUSINESS

DISCUSSION OF SECTION 13-27 OF THE CODE

Comm. Perona said next on the agenda is the discussion of Section 13-27 of the Code, which Mr. Walker will also address.

CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016

Mr. Walker said the Board asked that a memorandum be prepared on the subject of 13-27 of our Code of Ordinances. Questions arise from time to time regarding its application for those seeking credit regarding intervening military service, so such memorandum was prepared. He said he has attached copies of authorities that he thought would be helpful. Mr. Walker said he would like to think that the memorandum is self-explanatory. He said he will briefly summarize it and would be happy to answer any questions that may be presented on the subject. The City Code allows for credit on behalf of any military service that may be made. It imposes several conditions on any such request. The request must be made within one year after release from duty under honorable conditions. The Uniformed Services Employment and Reemployment Act (USERRA) say there has to be at least provision for 90 days after discharge from a military engagement, so this is well within that perimeter. Applications to be made within one year; the second condition for getting credit for intervening military service is there must have been reemployment based on the City's rules and regulations. The third condition is that the member pay the system for the cost of that intervening military service, and four, the intervening military service cannot previously have been credited toward a military pension. In other words, he or she can't double-dip by getting credit for the same military time by two different systems; the military's and the City's. The subject of pension reemployment is covered by the uniformed services employment and Employment Rights Act of 1994, and if one can simplify its application, all USERRA does is put the returning veteran in the same position as if he or she had not left City employment. So, you leave; you serve your country; you come back and, say you were gone for one year for instance, you pay for that one year of time and your pension rights are fully reinstated as if you had never left. Mr. Walker said that was the conclusion of his report.

Comm. Perona asked if there were any questions.

Mr. Stephens asked why do we require them to make the application. He wanted to know why it doesn't automatically happen with all of the other requirements.

Mr. Walker said as he understands it, the person is required to apply. The Department of Labor has the information that an employer has to post letting employees know of their duties in that regard. There is a standard poster in the City's Human Resources Department. It alerts employees to necessities for formally advising the employer of their inclusion of military time. The burden is on the employee to let the City know.

Ms. Morris said in our Ordinance it says if you want the credit for the five years, you can ask for pensionable credit for those five years. It's not a given, you have to make an application to say that of these four, you are not going to ask on the military service side. As Mr. Walker said, you can't double-dip. You will come and say, "I'm not going to request this time as part of my pension on the military service side, I want credit here." As I read the USERRA Credit Act, the person coming back is required, according to USERRA, to inform the employer when they are coming back. It's usually 90 days but we're giving you a year. It's incumbent upon the member to come back and say, "I'm not going to ask for this to be a part of my military pension; I want it to be a part of my civilian pension."

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016**

Mr. Walker asked to explain that further. He said the returning employee is in the best position to know if his or her time is eligible for credit. The City, for its part, is automatically going to be bringing that employee up to date with all of the City's credits. If the employee wants more than to be made whole by claiming extra credit by virtue of the military service, the employee is in the best position to know his or her eligibility because only he or she will know whether that time spent in the military has been applied to the military pension or not.

Mr. Stephens said it's automatically military pension if you retire. You are assuming you retire; you do 8 years, there's no pension; you do 19 years, there's no pension. You are assuming a lot, so obviously if you are going to do 8 years, there's no pension, so you want it to go towards your civilian pension.

Comm. Perona said the Treasurer could create an internal policy that when returning from military service, you have a list of options.

Mr. Walker said the City's official position is having posted the information required by the Department of Labor. The need to update the brochure that we give to all people about their retirement rights is recognized. He said Ms. Morris and he have discussed the desirability of including a provision.

Ms. Morris said if they could do a form just to spell out these provisions and maybe have the employee sign that they've received the information so that when it comes up later, the signed form by the employee will show that they did receive it.

ITEM NO. 9 ~ CONSENT OF AGENDA

Comm. Perona, the next item is the Consent Agenda.

A motion was made by Ms. Penick and seconded by Mr. Stephens to approve the refund of member contributions.

All those in favor of the motion signified by saying aye. A role call was done; there were no oppositions and the motion carried unanimously.

ITEM NO. 9 ~ CONSIDERATION OF ABSENCES

Comm. Perona acknowledged the excused absence of Caleta Scott. **A motion was made by Comm. Sessions and seconded by Ms. Morris to approve the excused absence of Caleta Scott.**

All those in favor of the motion signified by saying aye. A role call was done; there were no oppositions and the motion carried unanimously.

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016**

ITEM NO. 10 ~ BOARD MEMBER COMMENTS

Mr. Stephens asked if you are going for CEU's, how long do you have to stay?

Ms. Christina Paz said you are to stay until Wednesday.

Ms. Morris said on Wednesday, you will have a class.

Mr. Walker said it was good to see this type of professionalism of the Board members.

Comm. Perona said when our money managers and our auditors come in and tell us how we compare to the rest of the world; we would like to have the knowledge and education to back this up. We are trained advisors and decision makers for this plan.

Mr. Nieves asked the Board if they read the newsletter the Board receives from Cypen & Cypen. He said the newsletter has very informative information.

ITEM NO. 12 ~ NEXT MEETING

The next item was next month's meeting. The next meeting was scheduled for October 20, 2016 at 2:00 p.m.

ITEM NO. 13 ~ ADJOURNMENT

Seeing that there were no further questions or comments, Comm. Perona asked for a **motion to adjourn the meeting. A motion was made by Comm. Sessions and seconded by Ms. Penick for adjournment of the meeting. All those in favor of the motion signified by saying aye. There was no opposition and the motion carried unanimously.**

The meeting was adjourned the meeting at 2:33 p.m.

ATTEST:

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM
MINUTES OF MEETING HELD
August 18, 2016**

Secretary/Treasurer

Chairperson

Note: These minutes are not verbatim, only important issues and motions are reproduced in writing for the benefit of the Fort Pierce Retirement and Benefit System members. The recording itself is the official record for the meeting. The meeting tape/cd is available.