

**CITY OF FORT PIERCE RETIREMENT AND BENEFIT SYSTEM  
MINUTES OF MEETING HELD  
April 20, 2017**

Summarized Minutes of the regular meeting of the City of Fort Pierce Retirement and Benefit System April 20, 2017 2:00 p.m., in the 2<sup>nd</sup> Floor Conference Room at City Hall.

Present:

Commissioner Tom Perona, Chairperson	City Commission Member
Keith Stephens, Vice -Chairperson	U.A. General Member
Johnna Morris	Director of Finance
Rodney Nieves	Police Officer Member
Caleta Scott	General Member
Nina Penick	U.A. Board Appointee
Attorney Jim Walker	Attorney for the Retirement Board, Advisory
Christina Paz	Retirement Clerk

Guests:

William Abramowicz  
William Plats

Absent:

Commissioner Reginald Sessions	City Commission Member
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Recording:

Queen Thompkins	Executive Assistant to the Director of Finance
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**ITEM NO. 1 & 2 ~ ROLL CALL**

**Comm. Tom Perona** called the meeting to order at 2:02 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.

**Mr. William Abramowicz** said he was here on behalf of his father, Edward Abramowicz, requesting information on his father’s Cost of Living Adjustment (COLA).

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**ITEM NO. 4 ~ APPROVAL OF SUMMARIZED MINUTES OF APRIL 20, 2017.**

**Comm. Perona**, the next item was the approval of the summarized minutes of April 20, 2017 and asked if there was a motion to approve the minutes.

**Mr. Keith Stephens** made note of an error in his title at the beginning of the minutes. The title should read **U.A. General Member** instead of **U.A. General Manager**. Mr. Robert Creswell name should be added to the list of guests in attendance. Ms. Morris asked that the comments of the Board, from Mr. Armstrong's presentation also be added. The comments were added to the March 16, 2017 meeting.

**ITEM NO. 5 ~ ATTORNEY'S REPORT**

**Attorney Jim Walker** said there were a few things to report; Keith Robinson had passed away and we received a request for accumulated contributions that was made on behalf of a couple of family members and they asked for information. We did not hear anything in follow-up; some months went by and then we received another independent request from a third party reporting to be the beneficiary of Keith Robinson; asking for the same benefits. We got together with the attorney, asking for assistance in sorting things out. There was a procedure for periodic follow-up for benefits recipient to assure they were still alive and our secretary has been very diligent in that and has identified a lady who has passed away. It is my understanding that the son continued to collect the benefits. He understands that he is responsible for the repayment of those funds. He's made partial payments. It is also my understanding that he has or will execute a promissory note to pay the remaining balance.

**Comm. Perona** asked Mr. Walker what was the total amount that was originally due to the City.

**Mr. Walker** said the promissory note is \$8,475. He came in about two weeks ago and paid \$2,000. He owed about \$10,000, so he's made a partial payment of about 20% and we are going to schedule payments for the remaining amount.

**Comm. Perona** asked if it was a matter of function to be able to turn this over to the authorities; or is this a mistake? It seems intentional from my perspective; you keep getting checks; you cashed the checks. Is there some obligation from this Board to act as the custodian of these funds in a formal way?

**Mr. Walker** said our fiduciary duty extends to the administration of the System. I do not personally have access to sufficient information to determine that there is any probability or any sort of crime was committed; you may infer that as a possibility. The Board does have the discretion to report the matter to the State Attorney's office, if it wishes, for further investigation.

**Mr. Nieves** said two comes to mind right now; one is forged instrument and grand theft. I don't have to be state attorney to ascertain that information. I'm curious to know how the indiscretion was caught or how was it missed.

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**Ms. Morris** said it was a direct deposit; it was being directly deposited into the account until we sent out the annual notice to retirees to verify they were still living. That's when we found out this person actually was not living anymore, and the checks were being deposited into the account.

**Comm. Perona** asked if this was a short period of time; this was not years; are we talking within the last year?

**Ms. Paz** said it was like a year.

**Comm. Perona** said if it was in between the time when we did the last inspection to this one.

**Ms. Morris** said yes.

**Comm. Perona** said he personally feels that we need to set an example by stating the fact that you don't want to mess those folks; this is not my money. It's everybody's money that is sitting here in this meeting. I agree that once we do something, we need a procedure that once that's been done and it's not something that looks like it was some minor mistake where they let it go to an account that nobody payed attention to it and finally they figured it out that it was there, I can understand that, if that was the case. But if somebody is actively participating with that account, they will know that payments are being made.

**Mr. Stephens** said one thing he was thinking, maybe we need a proposal on a procedure in handling this. The most important thing is we need to get the money back and it looks like they have already started the process. Moving forward, we definitely need a procedure if this happens again because I'm sure it's going to happen again.

**Comm. Perona** said what if in these rare cases that this happen, every individual situation is brought to this Board for consideration and direction; would that be appropriate? Johnna, if you are the one talking to the family and it's reasonable to think that it's only been three or four years that the mother died, it just went into the fund; nobody paid attention and there it is. You can come back to the Board and say we have a repayment on this and the Board can make a judgement on direction as to what to do. We don't want to leave it up to you as the treasurer to determine that. It should come before this Board so we can have an input in it.

**Mr. Nieves** said we start to create a slippery slope the moment we don't apply the law to everybody. I find it egregious that a person doesn't know there is a fund going in to someone else's account and suddenly remembers their mother is dead. I'm not trying to make light of this, but at what point were they going to cease; at the point where they no longer got caught. In my professional standing, there is not an individual catch a break because I think he just made a mistake versus this person is completely guilty.

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**Comm. Perona** said he understands that but, before we use to issue a check and that check had to be negotiated to the bank for deposit. Now it is automatically deposited.

**Mr. Nieves** said, what he's saying is that this is the account of the person's mother. She's deceased. All the funds that go there, were they equally divided? The individual knows that money that Mom is delivering into that bank account is a retirement fund, and he know that's the only fund she has that's going in there. This is what we do; let us investigate it to make sure nothing was illegally done.

**Comm. Perona** asked if he was speaking of the Fort Pierce Police Department.

**Mr. Nieves** said or any other agency the Board chooses. We can remove ourselves and have another agency do it; it won't be non-bias.

**Comm. Perona** said this is a good discussion matter to bring up at the next meeting and we will be able to determine what policy this Board wants to see for this particular situation. We want to be fair and we want to be consistent, and we need to make sure we are doing our fiduciary responsibilities as custodians of the retirement fund.

**Mr. Stephens** asked if interest was being received.

**Ms. Morris** said yes.

**Comm. Perona** said to put this on the next meeting as an agenda item for discussion.

**Mr. Walker** asked if there was any current direction to him on the matter.

**Comm. Perona** said Mr. Walker has handled it with what policies we have currently, which is being held internally. As long as we have some formal repayment system going, I think the future meeting will determine how we go forward from this point.

**Ms. Penick** asked what the payment terms were.

**Ms. Morris** said 3 years at 8%. That's what we have normally done in the past. It's always been over a 3 year period with 8% interest if it's over a certain amount, that normally what it has been. Because it was such a large amount, it's 3 years at 8%.

**Mr. Stephens** said, let's be honest, if he really didn't know what was going on, he was still spending the money. If he all of a sudden said, "I found this money; here is \$10,000 or \$11,000"; that's a whole different story and now he has spent the money and now he's paying.

**Comm. Perona** said this is not an agenda item, so we can't set policy on this right now.

**Mr. Nieves** said what's surprising is that we don't have policy on this.

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**Comm. Perona** said that is why we are here. If you think back over the last couple of years, we've changed a lot of policies. Comm. Perona asked Mr. Walker if he would like to continue.

**Mr. Walker** said those were the only two matters he felt were necessary to bring to the Board. He would be happy to answer any questions.

**Comm. Perona** asked if the Board had any questions.

**ITEM NO. 7 ~ PUBLIC HEARINGS ON BENEFIT APPLICATIONS**

**Comm. Perona** opened up the public hearing for comments on the request for Retirement from Sidney L. Jerger 29 years and 11 months of service with the Fort Pierce Utilities Authority (DROP Program). 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 by Ms. Nina Penick and seconded by Mr. Keith Stephens to approve the request for retirement from Sidney L. Jerger.** 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. 6 ~ OLD BUSINESS**

**Mr. Walker** said the Board recalls there was a Board Amendment that was previously discussed involving Rule One which would clarify the status of a member who moves into the DROP. At the last meeting and the first of two meetings formally approving, and I don't think it was finalized. This should be the meeting we should finalize that.

**Comm. Perona** said Point of Order; it has not been listed as an adequate consideration. From what I understand the Florida Legislation last year said that it must be governed under the same sequence. So, it will have to be listed for the next meeting. Please make note of that and it will be the second reading.

**ITEM NO. 8 ~NEW BUSINESS**

**a. COLA REQUEST FROM RETIREES**

**Comm. Perona** asked if everybody had a chance to read through the letter. We did discussed this briefly when Mr. Armstrong was here and talked about the three items that have to be present before a COLA can be considered. Mr. Armstrong added two of those. Comm. Perona asked Ms. Morris if she had the three items.

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**Ms. Morris** said according to our actuarial report, it spells out what has to be present in order for the cost of living adjustment (COLA) to be given, first of all we have to have gain over the percentage rate that we have. We have an 8% assumption and this past fiscal year had 8.89%, so we did meet that. The other says the investment returns. We had the over 8% assumption, but the final one is that the fund has to be able to have all the money to meet the future payments that we have to make, which is the unfunded liability. Currently, we don't; we are about \$30 million short. Until we get pass that \$30 million, we are not allowed to give a COLA.

**Comm. Perona** said it's not up to our discretion. If all three were met, it would still be the decision of this Board if a COLA would be given or not. If that was to be considered, I'm sure we would have to meet in the Chambers, because we would fill that place. The only comment I would make on this is that, can we respond to Mr. Ferch with the actuarial response? Anybody else could add any comment they want at this time. The other part of it is that, in the future, because there have been a lot of inquires this Board has the ability to be able to give a COLA at any given time. I would like to make in my comments when we do the annual report, they issue a COLA; will be spoken about and hopefully we can give a better description of the reason what this Board has to find possible before we can even consider a COLA for future years. We will respond to Mr. Ferch formally and we are going to add the COLA information to our annual reports. Comm. Perona asked the Board if they had any comments.

**Ms. Penick** said she thinks it would be very important to include Section 13-43.

**Comm. Perona** said Mr. Ferch sent that to us. We have the actuarial report which does make it explicit for this time of year to be able to consider.

***b. INFORMATION ON QUASI-JUDICIAL***

**Comm. Perona** said he thought it was appropriate to know that Commission went through a quick training seminar with an authority on quasi-judicial hearings since we, from time to time, jump into these, and they are beginning to be the way that a lot if situations are being resolved. I asked Johnna to get with Caleta and make sure we all have a copy and access to this; good reading; does answer some of the questions that are going on. Keep it close; know where it is so when we have to go into these quasi-judicial issues, you will understand the process. Mr. Walker did a great job telling us before. We opened up that hearing, but just to have some basic knowledge of what we can and can't do. I will state that even right now as we move through this year, our own City is looking at different Boards that are now required to have some training and knowledge of quasi-judicial issues because we have applicants that are being represented by attorneys. The Boards now have to be represented by attorneys and the City now has to be represented by attorneys. We are looking more and more to going to special magistrates which are trained members of the Bar that are able to, hopefully, to get through the issues with some compassion, but more of a consistency at a lower cost to the City, and the biggest thing for me is the liability which seems to not be there as much. I don't see any way the Retirement Board can kick this to a special magistrate. We are going to have to do the job, so that information is there for you, and for your help and assistance in understanding for the next time we go through something like this. Comm. Perona asked Mr. Walker if he had a chance to go through it.

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**Mr. Walker** said yes. This is an excellent summary of the basic general aspects of what is involved in a quasi-judicial hearing. Technically, every time we have a benefits hearing, that is a quasi-judicial proceeding. I say it's technical, however, because nobody shows up. It's pretty hard to talk about cross-examination when nobody is here. Our codes and our rules are setup to address the situation which typically arises whenever the benefit application is denied. At that point, the applicant lawyer's up in an adversarial situation, and the Board is then charged with offering a reconsideration under Rule 12 of our Rules of Procedure, and our Rules of Procedure then incorporate as something to be followed, and in reconsideration, our Code Section 13-172 which sets out in that Section the basic provisions required for quasi-judicial procedures. When we do have that reconsideration, the Board finds that it is much more formal and more detailed in terms of the procedural expectations placed on both the Board and the parties. The things we need to be aware of to have an understanding of the quasi-judicial concept are Rule 12 and Section 13-172.

**Comm. Perona** said if anybody reads through this and have a question or clarification on it at a future meeting, Mr. Walker is available to bring clarity to that.

**ITEM NO. 9 ~ CONSENT OF AGENDA**

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

**A motion was made by Ms. Morris and seconded by Ms. Scott 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.**

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**ITEM NO. 10 ~ CONSIDERATION OF ABSENCES**

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

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

**ITEM NO. 10 ~ BOARD MEMBER COMMENTS**

None.

**ITEM NO. 12 ~ ADJOURNMENT**

The next item was next month's meeting. The next meeting is scheduled for May 18, 2017 at 2:00 p.m.

**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 2:37 p.m.

ATTEST:

\_\_\_\_\_  
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.