



## **FIREFIIGHTERS RETIREMENT SYSTEM**

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### **MEETING OF THE BOARD OF TRUSTEES NOVEMBER 10, 2010**

A meeting of the board of trustees was held on November 10, 2010, at the Public Safety Building in Baton Rouge. Mr. Charles Fredieu, Chairman, called the meeting to order at 1:00 p.m.

Mayor Durbin gave the invocation and Mr. Birdwell led the pledge of allegiance.

Ms. Penny Gandy called the roll.

#### **MEMBERS PRESENT**

Mr. Charles Fredieu, Chairman  
Mr. Stacy Birdwell, Vice Chairman  
Dr. Steven Procopio  
Mayor Jimmy Durbin  
Mr. John Broussard  
Mr. Paul Smith

#### **OTHERS PRESENT**

Mr. Steven Stockstill  
Ms. Kelli Rogers  
Mr. Jason Starns  
Ms. Penny Gandy  
Mr. Gary Curran  
Ms. Lauren Bailey  
Mr. Joe Meals  
Mr. Eldon Ledoux  
Mr. Gregory LaPoole  
Mrs. Delores LaPoole

#### **MINUTES**

**MOTION:** Mr. Stacy Birdwell moved to approve the minutes of the board meeting held on October 14, 2010. Mayor Durbin seconded. The motion passed.

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**APPLICANTS**

- New Members

PROCEDURE: Each enrollment application is reviewed by staff to determine eligible job classification, date of hire, employer certification, and medical waiver information. Each application for membership was completed and submitted in accordance with all applicable state laws.

Mr. Jason Starns presented the list of new member applicants. (see attached Exhibit #1) He stated that all applications were in order.

MOTION: Mr. Birdwell moved to approve the new member applicants. Mr. Smith seconded. The motion passed.

- Retirees

PROCEDURE: Written notification of retirement is received and the member's file is reviewed for proper documentation and to determine that the applicant meets the legal criteria necessary to receive payment in the form of a monthly retirement benefit. Calculations for retirement are performed by the benefit analyst and verified by the system's administrator. All retirement applications were submitted and benefits calculated in accordance with all applicable state laws.

Mr. Starns presented the list of new retirees. (see attached Exhibit #2) He stated that all applications were in order.

MOTION: Mr. Birdwell moved to approve the new retiree applicants. Mr. Smith seconded. The motion passed.

- Survivor Applications

PROCEDURE: Survivors applying for benefits must furnish the retirement office with a notarized application for survivor benefits, a copy of the member's death certificate, a marriage license (if beneficiary is a spouse), and the beneficiary's birth certificate. Once received, the deceased member's records are reviewed by staff to determine survivor benefit eligibility and to determine that the survivor's benefit calculation is completed per all applicable state laws and any merger agreements. [NOTE: Individuals who retired under another retirement system where FRS is a third party administering payments as a result of a merger, and where the individual becomes deceased after the merger, the beneficiary or survivor is still required to submit all necessary documents; however, payment is made as set forth in the merger agreement (contract) affecting beneficiaries and survivors.] (R.S. 11:2256 and R.S. 11:2259)

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Mr. Starns presented the application of Mrs. Thelma Landry surviving spouse of Mr. Anthony Arthur Landry. He stated that the application was in order.

MOTION: Mr. Birdwell moved to approve surviving spouse benefits for Mrs. Thelma Landry. Mr. Smith seconded. The motion passed.

Mr. Starns presented the application of Mrs. Angela Floyd Thibodeaux surviving spouse of Mr. Nathan Ray Thibodeaux. He stated that the application was in order.

MOTION: Mr. Birdwell moved to approve the surviving spouse benefits for Mrs. Angela Floyd Thibodeaux. Mr. Smith seconded. The motion passed.

Mr. Starns presented the application of Mrs. Julia Toups Choate surviving spouse of Mr. George Choate, Jr. He stated the application was in order.

MOTION: Mr. Birdwell moved to approve the surviving spouse benefits for Mrs. Julia Toups Choate. Mr. Smith seconded. The motion passed.

- Disability Applications

PROCEDURE: Application for disability retirement, current job duties, and all medical records pertaining to the injury or illness were received and reviewed by the retirement office staff. An appointment was scheduled with a state medical disability board doctor specializing in the area of the claimed disability. The doctor has submitted a detailed report in laymen's terms of his findings based on the examination performed and the medical records reviewed. The board of trustees has been provided with the disability application, job description, state medical disability board doctor's report and all medical records for review. (R.S. 11:215, 216, 218, & 2258)

██████████ - Mr. Starns presented the application for disability retirement of ██████████. Mr. Starns stated that the applicant was seen by Dr. Thad Broussard, the State Medical Disability Board doctor. In his report, Dr. Broussard stated, that "I would agree with his treating physician that this patient cannot lift over 15 lbs. He is still having pain everyday and he is restricted with his performance. I believe that ██████████ at this time is totally incapacitate and cannot perform his normal duties and I believe such incapacity is likely to be permanent. He is most likely facing a second surgery but even after the second surgery I do not see that he will be improved to the point that he will be able to return to his occupation as a firefighter. The condition causing the disability was not received in the line of duty nor was it a result of an illness as a result of injuries received in the line of duty. The injury was sustained in an accident that occurred his duty activities."

Based upon the report of Dr. Thad Broussard, the staff recommendation was for the approval of non job related disability retirement and approval of discontinuing disability recertification.

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MOTION: Mr. Birdwell moved to accept the staff recommendation for approval of non job related disability retirement and approval of discontinuing disability recertification for [REDACTED]. Mr. Smith seconded. The motion passed.

[REDACTED] - Mr. Starns presented the application for disability retirement of [REDACTED]. Mr. Starns stated that the applicant was seen by Dr. Thad Broussard, the State Medical Disability Board doctor. In his report, Dr. Broussard stated, that "I have no hard findings on my physical exam that would preclude this patient from returning to work as a firefighter. However, she has had a F.C.E. which was valid and indicated that her maximum lifting ability was 40 lbs which placed her in the medium physical demand level. The physical demand required to be a firefighter would be 70 lbs which is beyond what she was measured in a very valid study which would require her to be in the heavy physical demand level (which has not been documented.) The record also indicates that she has reached maximum rehabilitation potential with regard to her work related injuries based on this information and particularly being a valid study. I do believe that this patient has reached maximum medical improvement. I do believe that she has the ability to return to gainful and functional employment. The F.C.E. is a 2 day study which was performed in October 2009 which makes it one year old at this time. There are essentially two decision making choices here; one is to accept her objectively measured findings which as documented in the medical record would mean that [REDACTED] is incapacitated as to prevent the performance of her normal duties and accept that incapacity as permanent secondary to the disabling condition that was received in the line of duty or alternatively repeat the F.C.E. with the same examiner and compare the results to determine if there has been change to the upside towards improvement or the downside towards worsening. If the study remains valid as it was initially and is proven as objectively as possible that this patient can function at a higher level then she likely could be returned to her job as a firefighter. If the study does not indicate such then I would conclude that the patient will indeed be incapacitated as to prevent the performance of her duties as a firefighter on a permanent basis, although I do believe she could perform alternative gainful and functional employment within the confines of the F.C.E."

MOTION: Mr. Birdwell moved to enter into executive session. Mayor Durbin seconded. The board entered executive session.

MOTION: Mr. Birdwell moved to resume public session. Mayor Durbin seconded. The board resumed public session.

Based upon the report of Dr. Thad Broussard, the staff recommendation was to obtain a second F.C.E. to determine if there has been a change since the F.C.E. performed in October 2009.

MOTION: Mr. Birdwell moved to accept the staff recommendation. Mayor Durbin seconded. The motion passed.

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██████████ - Mr. Starns presented the application for disability retirement of ██████████. Mr. Starns stated the applicant was seen by Dr. Garland Green the State Medical Disability Board doctor. In his report, Dr. Green stated, that " The patient has a history of coronary artery disease dating back to August of this year when he underwent left heart catheterization which revealed a 75% blockage which underwent angioplasty and stenting. The patient has continued to have chest pain complaints since that time and underwent another left heart catheterization in September 2010 which revealed the previously placed stent was open and there were no significant blockages. ██████████ continues to complain of chest pain, shortness of breath, fatigue and dizziness. Due to persistent complaints and in light of essentially benign recent left heart catheterization, I decided to get an echocardiogram performed in my office. ██████████ had normal left ventricular systolic function, no significant valvular or structural heart disease. His EKG was normal. ██████████ continues to have subjective complaints of chest pain and shortness of breath, however I can not delineate any objective findings to justify his level of symptoms. His coronary artery status has been defined and appears to be stable. He has normal left ventricular systolic function and no significant valvular heart disease, therefore I can not find that ██████████ is disabled to perform his job duties based on cardiac indications..."

Based upon the report of Dr. Garland Green, the staff recommendation was for denial of disability retirement.

MOTION: Mr. Birdwell moved to accept the staff recommendation. Mayor Durbin seconded. The motion passed.

- Disability Recertification Applications

PROCEDURE: Once each year during the first five years following the initial board of trustees approval for disability retirement, and once every three year period thereafter, all disability retirement members must undergo a medical examination by a state medical disability board doctor who must recertify that the disability retiree continues to be disabled from performing his duties. This recertification is required for the continuation of a disability member's benefits. The state medical disability board doctor's report has been provided to the board of trustees.

██████████ - Mr. Starns presented the application for disability recertification of ██████████. Mr. Starns stated that the applicant was seen by Dr. Thad Broussard, the State Medical Disability Board doctor. In his report, Dr. Broussard stated, that "I believe that this patient's complaints and findings relative to his left foot are permanent and I do not believe that he will be able to wear the equipment specifically the boot required to fulfill his job duties and therefore find him incapacitated such as to prevent him from performing his normal duties as a firefighter..."

Based upon the report of Dr. Thad Broussard, the staff recommendation was for the approval of continuation of disability retirement and the approval for discontinuation of disability recertification.

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MOTION: Mr. Birdwell moved to approve the staff recommendation. Mr. Broussard seconded. The motion passed.

**MONTHLY FLASH REPORT - OCTOBER 2010**

Mr. Joe Meals presented the monthly flash report for October 2010. (see attached Exhibit #3) He began by noting that the overall fund was up/down as follows: 2.1% for the month of October as compared to the blended index of 2.4%; 9.8% for the fiscal year to date as compared to the blended index of 10.5%; 12.0% for the trailing 12 months as compared to the blended index of 13.6%.

**LITIGATION - BROYLES V. CANTOR FITZGERALD, ET AL.**

Mr. Stockstill directed the board's attention to the lawsuit styled as Broyles v. Cantor Fitzgerald, et al., Suit No. 594,747, 19<sup>th</sup> JDC, Louisiana, and suggested the board enter executive session to discuss the matter as duly cited and posted on the FRS agenda for this board meeting.

MOTION: Mr. Birdwell moved to enter into executive session. Mayor Durbin seconded. The board entered executive session.

MOTION: Mr. Birdwell moved to resume public session. Mayor Durbin seconded. The board resumed public session.

MOTION: Mayor Durbin moved to authorize Mr. Kirk Reasonover to monitor and investigate the impact and effect of the Broyles' lawsuit recently filed against an existing FRS manager. Mr. Birdwell seconded. The motion passed.

**INVESTMENT COMMITTEE REPORT**

[NOTE: The Investment Committee did not meet this month.] Instead, Mr. Joe Meals presented three recommendations directly to the board.

- Republic Business Credit

Mr. Meals advised the board that Republic Business Credit has signed a letter of intent with Wells Fargo Bank and would like to amend the term sheet previously approved by FRS to state "after one year the investors may request repayment with a 120 day notice." (see attached Exhibit #4)

MOTION: After further discussion, Mr. Birdwell moved to accept the investment committee's recommendation and amend the term sheet to have a 120 day notice to request for repayment. Mr. Smith seconded. The motion passed.

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- Land Baron

Mr. Meals presented the board with the Third Quarter 2010 Property Report for the Nothing Left to Prove property (wholly owned by FRS) located in Surprise, Arizona, the Sol Mate Too property (partially owned by FRS) located in Buckeye, Arizona and the St. George Air Parc property (partially owned by FRS) located in St. George, Utah.

Mr. Meals indicated that the city of St. George would like to swap a parcel of property that it owns with a parcel that FRS owns. The result would consolidate all of the parcels that FRS owns, but the FRS property would have different road frontage compared to the currently owned parcels. Mr. Birdwell observed that apparently FRS would net less frontage if the transaction is approved and he further noted a lack of information regarding the topography of the land proposed to be given in swap to FRS. (see attached Exhibit #5)

After further discussions, the board requested Land Baron to provide a road frontage loss/gain analysis and a topography analysis of the property FRS would get, including pictures. The board also requested Land Baron explore selling the FRS property to the city of St. George. Mr. Meals said he would obtain the information from Land Baron as requested by the board. That concluded the discussion of this matter.

- Americus Real Estate Investments

Mr. Meals presented the board with the 2011 Proposed Operating and Capital Budget relative to Americus Real Estate Fund II Partnership, an existing FRS manager and recommended approval of the budget. (see attached Exhibit #6)

MOTION: After further discussion, Mr. Birdwell moved to accept Mr. Meal's recommendation. Mr. Smith seconded. The motion passed.

- Blackrock, Tradewinds and Thornburg

Mr. Meals recommended to the board that FRS allow Blackrock, Tradewinds and Thornburg, all existing FRS managers, to convert to a global equity market strategy.

MOTION: After further discussion, Mr. Birdwell moved to accept Mr. Meal's recommendation. Mayor Durbin seconded. The motion passed.

The discussion of this matter was concluded with no further action being needed or taken.

**APPEAL OF BENEFIT AMOUNT - GREGORY LAPOOLE**

Mr. Gregory LaPoole originally contacted the FRS office with two complaints, Mr. LaPoole sent a letter to FRS in which he alleged that his pension benefits were not calculated correctly because his responder pay, longevity pay and possibly his supplemental pay were not included in his earnable compensation. And secondly, he also questioned the accuracy of the benefit he is receiving because there is an offset that is applied. Mr. LaPoole is a disability conversion retiree, therefore he is subject to an offset based on his simultaneous receipt of workers' compensation benefits. Mr. Stockstill said that he had previously spoken with Mr. LaPoole. Mr. Stockstill had suggested that Mr. LaPoole contact the city to get his pay straight. If the city would adjust his pay and submit corrected employer contribution reports, with additional contributions, then FRS would gladly adjust Mr. LaPoole's benefit, if that was the case. Mr. LaPoole asserted that he wants FRS to pay him the corrected benefit based on the inclusion of all those items in his pay, but FRS had not been provided with any evidence that it was excluded. Ordinarily, FRS would not go beyond what the employer reports because each employer signs a sworn statement at the bottom of each monthly contribution report saying that the contributions are made in accordance with the law, and the law defines what goes into the earnable compensation they report. FRS would not ordinarily question the employer because FRS lacks grounds or standing to raise such questions. Mr. LaPoole has the right to question the city, but not FRS. Mr. LaPoole expressed grave mistrust in the administration of the city and the staff of the retirement system, so based on his persistence, Mr. Stockstill asked FRS staff to contact the city to find out exactly what elements of his pay were included in the line item that they provide to FRS in the form of contributions.

Earnable Compensation. Ms. Kelli Rogers advised the board, that she contacted the City of Monroe for a summary of each pay period for Mr. LaPoole during his career as a firefighter. Ms. Rogers randomly picked February 2007 to verify that the correct amount was reported. Ms. Rogers concluded that the City of Monroe paid contributions on Mr. LaPoole's responder pay, longevity and state supplemental pay. Ms. Rogers concluded that she has no reason to believe that Mr. LaPoole's responder pay, longevity pay and state supplemental pay were not included in his earnable compensation calculation.

Offset of Benefits. Ms. Rogers presented the board with a timeline showing Mr. LaPoole's benefit history and offset amounts. (see attached Exhibit #7) Mr. LaPoole retired and converted February 1, 2008 at the time he retired and applied for disability for conversion, he reported to FRS that he was not receiving workers' compensation as of February 2008. In August 2008, Mr. LaPoole sent in an earnings statement reporting that he was making \$1,657 per month in workers' compensation benefits. So when FRS received the form in August, FRS had to adjust Mr. LaPoole's benefit based on him receiving \$1,657 a month in workers' compensation for that year. If \$1,657 is applied for the 5 months in 2008, that would be \$8,285 total for the calendar year 2008. In the next year, when earnings statement were due for 2008, FRS received an earnings statement from Mr. LaPoole that stated he actually received \$14,479 in workers' compensation. Mr. LaPoole received \$6,194 more than what FRS had anticipated. Consequently, FRS paid Mr. LaPoole too much. Mr. LaPoole



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should have been offset based on \$14,479. Therefore, FRS had to go back and recoup what was overpaid to Mr. LaPoole. Then FRS must adjust Mr. LaPoole's benefit and assume for the next year, 2009, he will receive \$14,479, and base the offset on \$14,479. Then in 2010, FRS received Mr. LaPoole's earning statement stating that he received \$19,884.72 in workers' compensation. Once again, FRS did not offset Mr. LaPoole enough because instead of receiving \$14,479 in workers' compensation, he received \$19,884.72. Consequently, in order for FRS to recoup what was overpaid to Mr. LaPoole in 2008 and 2009, FRS must offset his benefit. Additionally, FRS must offset Mr. LaPoole's benefit in order to insure that he is not paid too much in 2010.

MOTION: Mayor Durbin moved to deny an adjustment of benefits based on either of Mr. LaPoole's allegations, citing the lack of any evidence showing an error had occurred in either case. Mr. Birdwell seconded. The motion passed.

**FIRE CHIEF ELECTION**

Mr. Stockstill presented the board with a proposed schedule for conducting the election regarding the fire chief position on the FRS board of trustees. (see attached Exhibit #8) He said that FRS will be mailing nomination forms and ballots to all fire departments participating in the system.

MOTION: Mr. Smith moved to accept the time line as presented. Mayor Durbin seconded. The motion passed.

**FRS COMPUTER BACK-UP**

Ms. Rogers advised the board that the computer that is currently used to back-up the system's internally stored data can no longer hold all the information contained in the data base. Ms. Rogers asked the board to amend the budget and authorize the purchase of a back-up system with sufficient operating capacity.

MOTION: Mr. Birdwell moved to amend the budget as requested by staff. Mayor Durbin seconded. The motion passed.

**ADJOURNMENT**

There being no further business, the meeting of the FRS board of trustees was adjourned.

**FUTURE MEETINGS**

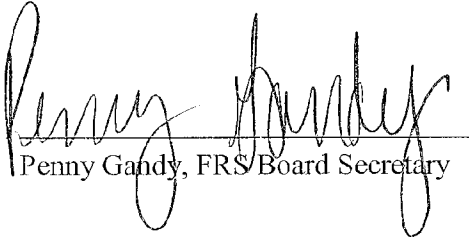
**FRS Investment Committee  
Public Safety Building  
3100 Brentwood Drive  
Baton Rouge, Louisiana  
Wednesday, December 8, 2010 at 3:00 pm**

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**FRS Board of Trustees  
Public Safety Building  
3100 Brentwood Drive  
Baton Rouge, Louisiana  
Thursday, December 9, 2010 at 8:30 a.m.**

SUBMITTED BY:

  
Penny Gandy, FRS Board Secretary

APPROVED BY:

  
Mr. Charles Fredieu, FRS Chairman