



## **FIREFIGHTERS RETIREMENT SYSTEM**

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### **MEETING OF THE BOARD OF TRUSTEES** **July 20, 2009**

A meeting of the board of trustees was held on July 20, 2009, at the Public Safety Building in Baton Rouge. Mr. Charles Fredieu, Chairman, called the meeting to order at 8:45 a.m.

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

Chairman Fredieu introduced the new member of the board, Mayor Randy Roach, Mayor of Lake Charles, Louisiana.

The oath of office was administered to Mayor Randy Roach by Mr. Steven Stockstill.

Ms. Janet Picard called the roll.

#### **MEMBERS PRESENT**

Charles Fredieu, Chairman  
Mayor Randy Roach  
Stacy Birdwell  
Mayor Jimmy Durbin  
Sammy Halphen  
Paul Smith  
Ms. Barbara Goodson  
John Broussard

#### **OTHERS PRESENT**

Steven Stockstill  
Kelli Chandler  
Jason Starns  
Janet Picard  
Greg Curran  
Joe Meals  
Mike Gallagher  
Karen Stephens  
Matt  
Lauren Bailey  
Walter Morales  
Eldon Ledoux

Harold Lacoste  
Jeffery Lacoste  
April Lacoste

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**MINUTES**

MOTION: Mr. Birdwell moved to adopt the minutes of the board meeting held on June 18, 2009, with the following correction: On page 11, on line 2 of the Motion, after "who" and before "participated," insert "have not." Mayor Durbin seconded. The motion passed.

**APPLICANTS**

- New Members

There were no new member applicants.

- Retirees

There were no retiree applicants.

- 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 retirement application is reviewed and the designated beneficiary's information is verified to match the documents submitted. [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)

Mr. Starns presented the application of Mrs. Rosalind Paterson Nelson, surviving spouse of Mr. Frankie Paul Nelson. He stated that the application was in order.

MOTION: Mr. Birdwell moved to approve survivor benefits for Mrs. Rosalind Paterson Nelson. Mayor Roach seconded. The motion passed.

Mr. Starns presented the application of Mrs. Deborah Jane Smith, surviving spouse of Mr. Percy Smith. He stated that the application was in order. He turned the board's attention to a letter from Mrs. Smith dated May 10, 2009, in which she is appealing the FRS staff determination that, according to law, she is not entitled to the 50% survivor benefit under the disability retirement provisions. Mr. Starns stated that Mr. Percy Smith was a disability retiree, and the surviving spouse of a disability retiree is automatically entitled to a survivor benefit of \$200 per month. He explained that a disability retiree may select an option to provide one-half of his disability benefit to his

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surviving spouse upon his death, but his disability benefit would be actuarially reduced. Mr. Smith chose to receive his full disability benefit and, therefore, Mrs. Smith is only entitled to a benefit of \$200 per month. [R.S. 11:2258] According to Mr. Starns, Mrs. Smith is appealing his decision that she is not entitled to the 50% survivor benefit.

MOTION: Mr. Birdwell moved to approve survivor benefits for Mrs. Deborah Jane Smith in the amount of \$200 per month. Mayor Durbin seconded. The motion passed.

Mr. Starns presented the application for survivor DROP benefits of Ms. Robin Amanda Brown Ates, beneficiary of Mr. Harold Francis Trichell and stated that the application was in order.

MOTION: Mr. Birdwell moved to approve the application for survivor DROP benefits of Ms. Robin Amanda Brown Ates. Mayor Roach seconded. The motion passed.

- Disability Retirement 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 [REDACTED]

Mr. Starns stated that [REDACTED] was seen by Dr. Thad Broussard, the State Medical Disability Board doctor. Dr. Broussard indicated in his report that he believed [REDACTED] disability began in the early 2000s, after his enrollment in the Firefighters' Retirement System on June 16, 1997. He was of the opinion that the applicant's condition was not solely the result of the injury sustained in the performance of his normal duties and that his activities of daily living contributed to his disability over the course of many years. However, Dr. Broussard also reported that had the applicant not sustained the injury in the performance of his duties as a firefighter, his activities of daily living would not have caused his condition. Based upon the report of Dr. Broussard, Mr. Starns recommended that a non-job-related disability be approved for [REDACTED]

The fact that [REDACTED] did not file for disability retirement while an active contributing member of the system was discussed. In addition, it was noted that Dr. Broussard, in his report, stated that he believed that the impedance which caused [REDACTED] condition was likely in the course of his duties.

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MOTION: Mr. Birdwell moved to approve job-related disability benefits to [REDACTED]. Mayor Durbin seconded.

The discussion regarding [REDACTED] application having been filed after his termination of service continued. [REDACTED] was informed that an application for disability could have been filed at anytime during the year of sick leave; however, the application cannot be acted upon until after the exhaustion of the leave. Based on expressions of concern by board members regarding [REDACTED] having applied for disability benefits after separation from service, Mr. Stockstill was asked to research the matter and address it at the August board meeting.

The earlier motion was not taken up.

MOTION: Mr. Birdwell moved to approve job-related disability benefits for [REDACTED] contingent upon the legal findings of Mr. Stockstill. Mayor Durbin seconded. The motion passed.

- Disability Conversion Applications

PROCEDURE: Retirees who apply for conversion from regular retirement to a disability retirement are required to submit detailed medical information as part of the application in support of their claim that the disability was job-related and occurred during active employment as a firefighter, even though the actual physical disability may not have become manifest until after the effective date in DROP or after commencement of service retirement. Once received, the application is reviewed by staff and medical records are forwarded to a State Medical Disability Board doctor to determine if sufficient documentation is present to certify that the retiree's disability occurred during active employment and was a direct result of working as a firefighter. If the medical information submitted is not sufficient for the doctor to determine the date and cause of the disability, then an appointment is scheduled for the applicant to undergo a physical examination. The State Medical Disability Board doctor must furnish a medical report certifying the retiree's disability and that the disability was a direct result of employment as a firefighter. (R.S. 11:2258(B)(2) and Administrative Rule)

Mr. Starns presented the application for disability conversion of [REDACTED], who was present in the meeting. According to the report by Dr. Thad Broussard, the State Medical Disability Board doctor, he was of the opinion that [REDACTED] had reached maximum medical improvement and had sustained his injury while in the performance of his duties as a firefighter in May of 1995. Based upon the report by Dr. Broussard, Mr. Starns recommended approval for disability conversion and to discontinue the requirement for disability recertification.

MOTION: Mr. Birdwell moved to approve the disability conversion application of [REDACTED] and to discontinue the requirement for disability recertification. Mayor Durbin seconded. The motion passed.

**ADMINISTRATIVE REPORT - CORRECTION OF BENEFITS**

Mr. Starns reminded the members of the board that during the June meeting, a discussion was had regarding the calculation of benefits for members who returned to work after retirement. He presented the case of Mr. Thomas Ray Deshotel, who retired May 30, 2007. Mr. Deshotel's monthly retirement benefit was \$2,558.40; however, his revised benefit based upon the 1991 Board Policy is \$3,428.77, which includes COLAs granted during that time. In addition, Mr. Deshotel is entitled to a retroactive benefit amount of \$18,436.17 from the period of May 2007 to July 2009, payable August 1, 2009. (see attached Exhibit #1)

**LOUISIANA WORKFORCE COMMISSION AND FRS - RENEWAL OF CONTRACT**

Ms. Kelli Chandler presented to the board for its consideration the renewal of the contract between the Louisiana Workforce Commission (LWC) and FRS. The contract allows FRS to access LWC data for a one-time user fee of \$775, with the contract being renewed to 2013.

MOTION: Mr. Smith moved to approve the renewal of the contract and the fee. Mr. Birdwell seconded. The motion passed.

**MONTHLY FLASH REPORT - JUNE 2009**

Mr. Meals presented the monthly flash report for June 2009. (see attached Exhibit #2) He began by noting that the overall fund was up/down as follows: 0.0% for the month of June as compared to the blended index of 0.4%; -19.8% for the fiscal year to date as compared to the blended index of -13.9%.

**NORTHERN TRUST INDEX FUND**

Mr. Stockstill informed the members of the board that information regarding Northern Trust has been brought to his attention. Northern Trust, one of the system's investment managers, holds some of the system's money in an Index Fund, and that Fund engaged in securities lending practices. He explained that Northern Trust had two internal policies they were required to follow. One is the loans that they made of the securities of the Fund were to be short-term, and the other was the type and quality of the assets that they invested in when they received cash as collateral for the loans. Allegedly, Northern Trust has made loans for much longer periods of duration than short-term, and because of the downturn in the market, they were unable to recover some of the securities. In addition, it appears that they may have taken the cash collateral and invested it in non-liquid assets. The actions of Northern Trust have resulted in an approximate loss of \$600,000 for FRS, which can very possibly increase into the millions. Mr. Stockstill stated that a class action lawsuit, which is being litigated in Illinois, already exists involving ERISA funds. Although no governmental funds are participating, there is an attempt to form such a class. He went on to say that the legal firm

handling the securities litigation in the Morgan Keegan case for FRS brought this situation to his attention, and that he told the firm that he would bring the matter to the attention of the board with a recommendation for FRS to become the plaintiff representative for governmental plans to try to recover the loss. The lawsuit would be handled in state court. According to Mr. Stockstill, British Petroleum and other well-known private companies are taking similar action.

Upon questioning by Mr. Roach regarding the matter being a securities violation under the SEC, Mr. Stockstill replied that, although it could be, as a recent strategy, pension funds are attempting to keep securities lawsuits in state courts in order to avoid multi-district litigation. A motion would be necessary to authorize litigation.

Mr. Roach stated he had no problem initiating the litigation, but felt that the board needed a clear understanding of the terms and conditions regarding such a class action lawsuit, particularly with regard to the legal fees.

Mr. Stockstill responded that time is of the essence. He stated that approval to begin litigation could be made subject to a subcommittee of the board approving the fees and terms. Mr. Stockstill stated that he was told by the firm that it has performed a study relative to fees, and attorneys representing the law firm are going to be meeting with Chairman Fredieu and Mr. Birdwell later today to present its fee proposal.

Mr. Stockstill suggested that the board can approve going forward with the litigation subject to review of the study to make sure the firm's fees are in line with typical fees for such a lawsuit.

Mr. Roach expressed his concern regarding the structure of contingency fees, particularly in class action lawsuits.

MOTION: Mr. Roach moved to approve initiation of litigation subject to review of the fees and expenses by the subcommittee.

Mr. Stockstill stated that the contingency fee being proposed would be in the range of 30%, which he felt was too high. He said that FRS has been involved in two class action lawsuits involving securities litigation, and the fees have been between 20% and 25%.

Mr. Roach withdrew his motion and asked if the board had to vote on the matter today. Mr. Stockstill replied that, from what he was told, time is of the essence. Also, the ERISA litigation has already begun, and FRS would benefit from using the same discovery deadlines and other mechanics of the lawsuit that are already in place.

MOTION: Mr. Birdwell moved to initiate litigation, with the particulars of the legal fees and terms be negotiated to the satisfaction of the board and Mr. Stockstill. Mayor Durbin seconded. The motion passed.

Mr. Meals reminded the members that investments were redeemed from the Northern Trust Index Fund and invested in the Tradewinds Fund. He stated that the loss incurred with Northern Trust was due to its participation in securities lending. According to Mr. Meals, FRS has a claim of approximately \$1.5 million because it has in-kind securities in Northern Trust's cash collateral fund to be redeemed. In addition to the system's \$600,000 loss, it is possible that FRS could lose another \$1.5 million, depending upon what the ultimate liquidation of those investments will be in the S&P 500 Fund.

Upon questioning by Ms. Goodson, Mr. Meals explained that the \$600,000 loss was incurred because Northern Trust did sell some securities. Relative to the \$1.5 million, certain investments of Northern Trust are liquid and can be sold, but other investments are illiquid; however, Northern Trust has said that FRS would be given shares in the collateral fund and those shares will be liquidated as soon as the market allows it to do so.

#### **INVESTMENT REPORT**

[NOTE: An Investment Committee meeting was not held in the month of July.]

- **Market Update**

Mr. Meals provided a market update and recalled that both the NT 400 Index as of July 1 and the Axa Rosenberg portfolio have been terminated and moved into a new portfolio.

Mr. Roach suggested that perhaps the overall investment strategy and allocations of the FRS portfolio need to be looked at.

Mr. Meals agreed, adding that the issue has been discussed in the Investment Committee meetings over the last several months.

Mr. Roach and Mr. Meals briefly discussed investing in the equity market as opposed to the fixed income market, with Mr. Meals stating that the fixed income market return has been substantially lower than the actuarial assumption, and the outlook for the next three years is an annualized rate of approximately 4%.

- **Sail Venture Partners II**

[NOTE: Representatives of Sail Venture Partners II appeared before the Investment Committee in its October 2008 meeting and gave a presentation with regard to investing in certain companies that provide efficient and environmentally friendly energy production, water reclamation, and the production of spark plugs designed to improve energy efficiency in vehicles.]

Mr. Meals stated that Sail Venture Partners II has received grants from the federal stimulus package to build a plant in Michigan and another at a site to be determined.

Ms. Goodson stated that she was very impressed with Sail's presentation, and Chairman Fredieu commented that he would like for a representative of Sail Venture Partners II to appear before the Investment Committee to make another presentation.

**NOTHING LEFT TO PROVE**

Referring to the Nothing Left to Prove property, Mr. Meals asked if the financing transaction had closed.

Mr. Stockstill responded that the transaction approved in the June meeting required further action by the board. The attorney representing FRS in this matter suggested that a new title examination be obtained and title insurance be purchased. The cost would be approximately \$16,000.

Upon questioning by Mayor Roach, Mr. Meals explained the aspects of the Nothing Left to Prove property, the ownership interest of FRS, and the financing agreement, as well as a guaranteed return of 15%.

Mr. Stockstill suggested that the board approve the purchase of the title insurance in an amount not to exceed \$20,000.

MOTION: Ms. Goodson moved to allocate up to \$20,000 for the purchase of title insurance on the Nothing Left to Prove property. Mayor Durbin seconded. The motion passed.

- **Commonwealth Advisors, Inc. and Sand Springs Capital III - Restructure of Portfolio**

Mr. Walter Morales, representing Commonwealth Advisors, Inc., distributed to the members a document relative to the restructuring of the Sand Springs Capital III portfolio. (see attached Exhibit #3) He stated that Sand Springs Capital III is very heavily invested in mortgage backed securities, which have been impacted by the credit crisis and there was a fairly large withdrawal request from the fund last year. Contained in Exhibit #3 is the plan that was put together for paying investors. He explained that the fund is being split into two funds, CA Recovery Liquidating Fund



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and CA Recovery Non Liquidating Fund. FRS, as an investor, will have to select whether or not it wants a liquidating interest or a non-liquidating interest. Mr. Morales touched on the information contained in Exhibit #3. He then presented documents containing the projected cash flow for the CA Recovery Fund (see attached Exhibit #4) and projected cash flow for FRS (see attached Exhibit #5), copies of which were distributed to the members of the board.

Mr. Morales asked the board to approve the proposed change in the structure of the Sand Springs Capital III Fund and to make an election as to whether FRS wants a liquidating or non-liquidating interest in the fund.

Mayor Roach expressed concern with the fact that this matter was just being presented to the board, and because millions of dollars are involved, more time is needed and questions answered before a decision can be made.

Chairman Fredieu and Mayor Roach questioned whether it would be better for FRS to liquidate or not liquidate.

Mr. Meals replied that Mr. Morales was of the opinion that the system would be better off to not liquidate.

After a lengthy discussion, this matter was concluded with no action being taken.

**ADJOURNMENT**

The meeting dissolved by loss of a quorum.

**FUTURE MEETINGS**

**FRS Investment Committee  
Public Safety Building  
3100 Brentwood Drive  
Baton Rouge, Louisiana  
Wednesday, August 12, 2009**

**FRS Board of Trustees  
Public Safety Building  
3100 Brentwood Drive  
Baton Rouge, Louisiana  
Thursday, August 13, 2009**

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SUBMITTED BY:

APPROVED BY:

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Janet Picard, Transcriptionist

*Charles Fredieu*  
Mr. Charles Fredieu, FRS Chairman