



## SUMMARY TO THE REGULAR BOARD OF TRUSTEES MEETING

Friday, January 21, 2022

9:00 A.M. – 10:58 A.M.

City of Jacksonville Police and Fire Pension Fund  
1 West Adams Street Suite 100, Jacksonville, FL 32202

### Board of Trustees

Assistant Chief Chris Brown, Chair  
Nawal McDaniel, Secretary  
Cpt. Michael Lynch  
Richard Patsy  
Terry Wood

### Guests

\*Chuck  
\*Gar Chung, FIN News  
\*Tad Delegal  
Kelly Dobson, JFRD, IAFF Local 122  
\*Joe Ebisa. withIntelligence  
\*Robin Gainey, JFRD  
\*Gregg Gosch, Sawgrass Asset Management  
\*Marty LaPrade, Sawgrass Asset Management  
\*Kent Mathis, Trustee GEPP  
\*Dean McQuiddy, Sawgrass Asset Management  
\*Brian Smith, FIAC Chair  
\*Kurtis Wilson, JEA  
Randy Wyse, President, IAFF Local 122

### Staff

Timothy H. Johnson, Executive Director – Plan Administrator  
Steve Lundy, Deputy Director  
Kevin Grant, Finance Manager  
Chuck Hayes, Pension Benefits Manager  
\*Pete Strong, GRS, Fund Actuary  
\*Piotr Krekora, GRS, Fund Actuary  
\*Paul Barrett, Treasury  
\*Brennan Merrell, Treasury  
\*Jordan Cipriani, RVK, Investment Consultant  
Lawsikia Hodges, Office of General Counsel  
Jon Phillips, Office of General Counsel  
\*Sean Granat, Office of General Counsel  
\*Kevin Schmidt, RVK, Investment Consultant  
\*Bob Sugarman, Fund Counsel  
\*Jim Voytko, RVK, Investment Consultant

### Excused

Ronald Salem, City Council Liaison

\*Asterisk denotes virtual meeting attendance via the ZOOM application.

### Notice

Meeting Agendas and Summaries are available on our website at [jaxpfpf.coj.net](http://jaxpfpf.coj.net). For additional meeting documents, please contact Steve Lundy, Custodian of Public Records for the City of Jacksonville Police and Fire Pension Fund at 904-255-7373 or [SLundy@coj.net](mailto:SLundy@coj.net) to file a public records request.

Pursuant to the American with Disabilities Act, accommodations for persons with disabilities are available upon request. Please allow 1-2 business days notification to process; last minute requests will be accepted, but may not be possible to fulfill. Please contact Disabled Services Division at: V(904) 630-4940, TTY-(904) 630-4933. If any person decides to appeal any decision made with respect to any matter considered at this public meeting such person will need a record of proceedings, and for such purpose such person may need to ensure that a verbatim record of the proceedings is made at their own expense and that such record includes the testimony and evidence on which the appeal is based. The public meeting may be continued to a date, time, and place to be specified on the record at the meeting. Additional items may be added / changed prior to meeting.

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Agenda

I. Pledge of Allegiance

II. Invocation

Timothy Johnson gave the invocation.

III. Moment of Silence

Herbert O. Alexander, Retired Firefighter  
John Halman, Retired Police Officer  
Robert J. Hicks, Retired Fire Captain  
John Powell, Active Firefighter Engineer  
Joseph R. Saffer, Retired Police Sergeant  
Robert Starling, Retired Police Officer

IV. Public Speaking

None.

V. Election of Officers

*a. Chair*

*b. Secretary*

Richard Patsy nominated Chris Brown as Chair, and Nawal McDaniel as Secretary of the Board of Trustees, seconded by Terry Wood. The vote passed unanimously.

VI. Consent Agenda Items 2022-01-(01-08)CA

Terry Wood moved to approve the consent agenda, seconded by Richard Patsy. The vote passed unanimously.

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*2022-01-01CA Meeting Summaries to be Approved*

1. Summary to the Board of Trustees Meeting of December 17, 2021

*2021-01-02CA Disbursements*

The listed expenditures in DISBURSEMENTS A & B have been reviewed and deemed payable. The Police and Fire Pension Fund Finance Manager certifies that they are proper and in compliance with the appropriated budget. Transaction lists attached.

**DISBURSEMENTS A**

12-01-2021 thru 12-31-2021

None.

**DISBURSEMENTS B**

12-01-2021 thru 12-31-2021

1. Accounts Payable Distributions	\$	59,911.83
2. Accounts Receivables	\$	63,659.14

*2021-12-03CA Pension Distributions*

All calculation and dollar amounts have been reviewed and calculated in accordance with accepted procedures.

**December 10, 2021**

1. Regular Gross*	\$	9,517,439.94
2. Regular Lumpsum	\$	23,207.00
3. Regular Rollover	\$	0.00
4. Regular DROP Gross	\$	1,389,017.47
5. DROP Lumpsum	\$	0.00
6. DROP Rollover	\$	0.00
<b>Total</b>	<b>\$</b>	<b>10,929,664.41</b>

**December 24, 2021**

7. Regular Gross	\$	6,698,020.50
8. Regular Lumpsum	\$	0.00
9. Regular Rollover	\$	0.00
10. Regular DROP Gross	\$	1,386,814.87
11. DROP Lumpsum	\$	0.00
12. DROP Rollover	\$	0.00

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**Total**                    \$            **8,084,835.37**

\*Includes the 2.7% Holiday Bonus of \$2,816,828.19.

The following Consent Agenda items 2022-01-(04-05CA) were verified with supporting documentation and approved at the Advisory Committee meeting held on January 11, 2022. Vote was unanimous. Meeting Summary attached.

[2022-01-04CA](#)

Application for Survivor Benefits

[2022-01-05CA](#)

Application for Time Service Connections

The following Consent Agenda items 2022-01-(06-08CA) were verified with supporting documentation and received as information at the Advisory Committee meeting held on January 11, 2022. Vote was unanimous. Meeting Summary attached.

[2022-01-06CA](#)

DROP Participant Termination of Employment

[2022-01-07CA](#)

DROP Distributions

[2022-01-08CA](#)

DROP Distributions for Survivors

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VII. Fund Actuary's Report

*a. Fiscal Year 2021 Actuarial Valuation Report*

Pete Strong, Fund Actuary, presented his Fiscal Year 2021 Draft Actuarial Valuation Report. He began by covering the revisions in actuarial assumptions and methods. He noted that the amortization period for new amortization bases is reduced from 27 to 26 years this year, and will be continued to be reduced by one year annually until reaching 15 years. The assumed investment return assumption has been reduced by 0.275% from 6.9% per annum to 6.625% per annum, compounded annually. This assumption change caused the required City contribution for FY 2023 to increase by \$10,172,810.

Pete Strong covered the actuarial experience, beginning on page 2. "There were net actuarial experience gains totaling approximately \$155.1 million during the past year, which means that actual experience was more favorable than expected. The majority of the experience gains was due to changes in the projected Pension Liability Surtax proceeds (of approximately \$94.3 million) caused by a 14.36% increase in actual surtax revenue from FY 2020 to FY 2021. The surtax revenue is assumed to increase by 4.25% per year."

Pete Strong covered investment experience: "Investment experience (on the Actuarial Value of Assets) resulted in an experience gain (net of reserves) of about \$56.8 million. The investment return on the smoothed Actuarial Value of Assets was 9.72% compared to the assumed annual investment return of 6.90%. (The net money-weighted investment return on the Market Value of Assets was 23.15%, as reported by the Plan's investment consultant.) Investment gains and losses are spread over a five-year smoothing period, with gains and losses from prior years being smoothed into the current year."

Pete Strong covered demographic experience: "Overall demographic experience resulted in a net experience gain of about \$4.0 million. There were demographic experience gains due to lower salary increases than expected (2.3% actual versus 4.8% assumed) and higher turnover experience than expected (32 actual employment terminations versus 22 expected). There were also some offsetting demographic experience losses due to higher retirement experience than expected (145 actual retirements versus 115 expected) and lower inactive mortality experience than expected (46 actual retiree deaths versus 59 expected)."

"Overall, the net actuarial experience gain caused the required City contribution to decrease by \$11,095,509."

Terry Wood asked if the surtax assumption could be smoothed like the investment returns.

Pete Strong said that he brought up smoothing the surtax growth assumption during negotiations with the City when the surtax was being crafted, but it fell off the radar. The City mentioned wanting to have all three pension plans on the same page. To incorporate this, we should have a conversation with the City Treasurer. This is worth having a conversation about.

Michael Lynch said he brought this up at the FIAC meeting, and that it is a policy decision we should make, or at least have a conversation about.

Chris Brown said smoothing makes sense.

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Pete Strong said that the Board of Trustees decided to smooth assets, and he does not see a problem with smoothing the surtax as well.

Pete Strong noted that going forward, the Court Fines and Penalties will flow into the Fund to pay down the unfunded liability.

Chris Brown thanked Michael Lynch for that recommendation.

Michael Lynch asked when the final actuarial valuation would be revisited, given this report is preliminary.

Pete Strong said March.

**Michael Lynch moved to accept the Actuarial Valuation Report, seconded by Terry Wood. Discussion:**

Terry Wood asked about the timeline for submitting the report.

Timothy Johnson said he would write a letter to City Council today summarizing the report, and informing the City Council of the \$156 million ADEC.

**The vote passed unanimously.**

#### VIII. Co-Lead Plaintiff Securities Litigation Counsel Recommendation

Timothy Johnson said that in December, the Board of Trustees approved being lead plaintiff in the Citrix securities litigation case. However, there are now three additional lead plaintiffs in Florida – Hollywood, Melbourne, and Hallandale Beach. He said he wanted to bring this back to the Board of Trustees to approve joining the case as co-lead plaintiff.

Lawsikia Hodges said that it would be appropriate to err on the side of caution because the Board’s previous motion was specific to “lead plaintiff”.

**Michael Lynch moved to join the three others as co-lead plaintiffs in the securities litigation case against Citrix, seconded by Nawal McDaniel. The vote passed unanimously.**

#### IX. Investment Consultant Reports

##### *a. Investment Manager Discussion*

Kevin Schmidt covered the Sawgrass Asset Management Diversified Large Cap Growth Recommendation memo from RVK:

“RVK recommends that PFPF terminate Sawgrass from its current large cap growth mandate. The rationale for this recommendation includes concerns specific to Sawgrass, in addition to considerations related to the structure of the US equity composite.

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Regarding Sawgrass, we observe negative trends associated with the firm, investment team and performance of the strategy.

- At the end of 2017, the firm had assets of \$4.0 billion and the Diversified Large Cap Growth strategy had composite assets of \$2.0 billion. Despite the positive absolute performance of the strategy, the relative performance has led to outflows with firm and strategy assets declining to, approximately, \$2.9 billion and \$797 million, respectively, as of December 31, 2021.
- A key role of Sawgrass, within the US equity composite, is to provide downside protection, which it has continued to accomplish, but its performance in up markets has been more detrimental than in past market cycles leading to a track record that trails the Russell 1000 Growth by more than 3%, annualized, since inception of the PFPF account.
- Active large cap growth managers have had difficulty outpacing the Russell 1000 Growth over the past decade, primarily due to the strong performance of the largest companies within the index, however the performance of Sawgrass has failed to keep pace with the lackluster results of its peer group. Sawgrass has consistently ranked in the bottom quartile of its peer group for the 1, 3, 5, 7 and since inception annualized time periods, as well as in recent 5 year rolling periods.
- Nick Petriello, Portfolio Manager, who had been with the firm for seven years, departed Sawgrass in September 2021. Mr. Petriello had been developed at the firm and was promoted to portfolio manager prior to his departure. The firm communicated that it has been conducting a search over the past year and that it's identified a small number of finalists under consideration to be additions to the team. While a single departure does not necessitate termination, it is notable that a member of a relatively small team (four remaining equity portfolio managers), who was developed to be the next generation, chose to depart.

Should this recommendation be adopted, RVK views a reallocation that aims to place the proceeds equally between the passive S&P 500 strategy managed by Northern Trust and the Loomis Large Cap Growth Strategy, as an appropriate immediate option. This approach would achieve a portfolio that most closely resembles the current style profile of the composite."

Richard Patsy said he does not have any questions for RVK. He said he read the memo and the response from Sawgrass, and attended the FIAC meeting. He said he thinks RVL's recommendation is fair and balanced. He said he looks at "The Five P's" when considering manager terminations: People, Process, Philosophy, Performance, and Price. He said that regarding People, Nick Petriello left Sawgrass, but he wasn't a major factor in the team. There is no suggestion Patrick Riley or Marty LaPrade are leaving. Process and Philosophy have not changed at all. The glaring 800lb. gorilla in the room is Performance. Absolute is good, relative is bad.

Richard Patsy said that if he were given this recommendation a month ago, he would have supported it. He said that the market has shifted, and tech is getting beat up. He said he is reluctant to accept RVK's recommendation, but appreciates their work. He said he does not disagree, but is reluctant to pull the plug. He said he is willing to give Sawgrass a little more rope, and wants to see where the 'regime shift' in the Russell index goes. Like in the tech bubble, growth rolls over in extreme fashion. He said he would be willing to give Sawgrass 3-6 months, or whatever timeframe the Board of Trustees is comfortable with.

Michael Lynch said he agrees with almost everything Richard Patsy said. He said that this recommendation was surprising. He said the Board needs to keep an eye on this. The Board does not have a watch list policy.

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The Board discussed the merits of indexing versus ‘downside protection’.

Michael Lynch said that during the last few years, market conditions have been abnormal, and Sawgrass showed their worth during the COVID-19 crisis.

Chris Brown said that was the only time since inception – since 2013, it has been all high growth.

Richard Patsy said it is challenging, and if we go through a cycle like this, with a selloff every 10 years, we would be leaving chips on the table if a manager were strictly defensive.

Chris Brown recommended giving Sawgrass 3 to 6 months. He said Sawgrass cannot control what happens in the markets.

Michael Lynch suggested scheduling a public meeting in which Sawgrass could give a presentation, and the Board could ask questions. He suggested the Board of Trustees could take part of RVK’s recommendation, and reduce the allocation to Sawgrass as a potential alternative to termination. Sawgrass’ value ballooned from \$130 to \$160 million in the last quarter.

Chris Brown said the Board cannot look at the short term for this decision. Sawgrass should explain “The Five P’s”, and the Board would form its questions and make an informed decision.

Terry Wood said he wants a deeper discussion on the first bullet, referencing RVK’s recommendation.

Richard Patsy said that he understood from his conversations with Sawgrass that the large outflow was due to one client, an \$800 million state pension fund who decided to exit all active management and go passive.

Chris Brown suggested tabling the recommendation, and invite Sawgrass to present at next month’s Board meeting.

Terry Wood said he would like a deep dive into the details.

Michael Lynch suggested the Board of Trustees send their questions to Timothy Johnson who would get answers from Sawgrass. Timothy Johnson would relay the answers back to the Trustees ahead of the meeting so that action could be taken to terminate or reduce assets.

**Michael Lynch moved to table the FIAC’s recommendation regarding RVK’s recommendation to terminate Sawgrass until the March Board of Trustees meeting, while the Board of Trustees gathers and considers other information available, seconded by Richard Patsy. Discussion:**

Timothy Johnson said the Trustees would send him questions, he would relay them to RVK who would get answers from Sawgrass.

Richard Patsy requested RVK be physically present at the meeting to add to the discussion.

**The vote passed unanimously.**

Brian Smith said he wanted to share that he has reviewed the minutes from previous years, and that RVK was not the Fund’s first investment consultant to recommend the termination of Sawgrass. Summit Strategies made a recommendation to terminate Sawgrass in December 2016. This was a similar decision – the Board of Trustees was hesitant, and invited Sawgrass in to give a presentation. The same points were made – Sawgrass performs well in a down market, and the Board decided to leave it alone for a while. The Board left it alone for five years. He said he is not

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arguing – the Board of Trustees is very thoughtful of the process. This isn't a discussion over the past few months – it has been over years. He mentioned the 60-day timeframe given by the Board.

Terry Wood said that he voted in support of Michael Lynch's motion because of the timeframe. He said he is always open to hearing more facts and figures.

Michael Lynch said he appreciated Terry Wood's comments, and that being blind sighted to this recommendation was his biggest objection. Conversations were held over the past few years, but this was sudden.

Richard Patsy said that RVK's memo and recommendation was fair and balanced. He said he would recap what he learns in future FIAC meetings with the Board of Trustees. He said he agreed with Brian Smith in that terminating Sawgrass has been discussed by the FIAC many times.

Kevin Schmidt asked if the facts and figures the Board wishes to uncover would come from the Board.

Chris Brown said that the Trustees would send Timothy Johnson their individual questions, who would send them to RVK to answer. He said RVK gave a great presentation.

Kevin Schmidt said RVK would be happy to answer any questions.

*b. Monthly Investment Performance Analysis – December 31, 2021*

Jordan Cipriani covered the General Market Commentary portion of the Monthly Investment Performance Analysis as of December 31, 2021:

- “Global equity markets rebounded in December, with all major indices finishing in positive territory. Both domestic and international indices posted low-to-mid single digit returns, with value stocks outperforming their growth counterparts.
- Despite headwinds due to the continued spread of the Omicron variant of COVID-19, persistent high inflation, and supply chain bottlenecks, stocks traded higher due to strong corporate earnings and generally positive economic data.
- Following its final meeting of 2021, the Federal Open Market Committee (FOMC) stated it will end its bondbuying program earlier than anticipated in order to reduce inflationary pressures on the economy. It is estimated that the bond-buying program could end as soon as March 2022. Additionally, recent projections show that the FOMC is expected to increase the federal funds rate as many as three times in 2022 in an effort to stem continued inflationary pressures.
- Equity markets posted positive returns in December as the S&P 500 (Cap Wtd) Index returned 4.48% and the MSCI EAFE (Net) Index returned 5.12%. Emerging markets returned 1.88% as measured by the MSCI EM (Net) Index.
- The Bloomberg US Aggregate Bond Index returned -0.26% in December, underperforming the -0.26% return by the Bloomberg US Treasury Intermediate Term Index. International fixed income markets returned -0.67%, as measured by the FTSE Non-US World Gov't Bond Index.
- Public real estate, as measured by the FTSE NAREIT Eq REITs Index (TR), returned 8.83% in December and 10.75% over the trailing five-year period.

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- The Cambridge US Private Equity Index returned 52.33% for the trailing one-year period and 19.87% for the trailing five-year period ending September 2021.
- Absolute return strategies, as measured by the HFRI FOF Comp Index, returned 0.76% for the month and 6.53% over the trailing one-year period.
- Crude oil's price increased by 13.64% during the month, and has increased by 55.01% YoY.”

Jordan Cipriani covered page 3, noting that all asset classes were within policy ranges. She thanked Kevin Grant for getting the dollars deployed to the Fund’s new private investment allocations.

Michael Lynch asked if the Fund was able to secure an additional allocation to Hammes Partners Fund IV.

Jordan Cipriani said no, the Fund was not able to increase its allocation. She said that in the coming months, RVK will bring an updated pacing analysis to the Board concerning private investments.

## X. Counsel Reports

Lawsikia Hodges said she has nothing to report.

Bob Sugarman said he has nothing to report, other than he is still working on the new disability procedures.

## XI. Council Liaison Update

None.

## XII. Old Business

### a. *Changing the Board of Trustees’ Definition of “The City”*

Timothy Johnson said that this question was tabled by the Board of Trustees in August, and last night, we received a *binding* legal opinion from the Office of General Counsel (OGC).

Michael Lynch said he has not received an answer to his question (in reference to a question asked by email last night and this morning, “*what happens when there are conflicting ‘binding opinions?’*”).

Lawsikia Hodges began her presentation of *General Counsel Binding Legal Opinion 22-01; Legal Opinion regarding JEA’s Employment of Retired City Police Officers and Firefighters and Whether such Employment Triggers Suspension of City Retirees’ Pension Benefits under Section 121.105 of the Ordinance Code.*

Lawsikia Hodges said that this opinion was sent last night a little after 9:00 P.M., and that the opinion is nothing new – it just accepts the James Linn opinion that was written in May 2021. The reason the Board of Trustees tabled a decision was to give the parties an opportunity to bargain. Mr. Wyse reached out to the City in response to Timothy Johnson’s

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letter. On November 17, Todd Norman, Chief of Employee and Labor Relations, responded conclusively to IAFF Local 122 President Mr. Wyse, and copied FOP 5-30 President Mr. Zona. The City believes the Code is clear, and there is nothing to negotiate. If the Unions did want to move into collective bargaining, the City would move into permissive bargaining. She said that to her knowledge, Mr. Norman received no follow-up from Mr. Wyse.

Lawsikia Hodges said that JEA was trying to recruit talent for its workforce. OGC consulted and reviewed the Linn opinion with Bob Sugarman. She said she came to the Board of Trustees in May 2021 to present the Linn opinion. The reason was to collaborate with the Board of Trustees since the Board administers pension benefits. We need the two agencies, the PFPF and JEA to collaborate.

Lawsikia Hodges said that following the Board of Trustees meeting, OGC felt we were at a point ripe for conflict. OGC had already provided counsel to JEA and JEA proceeded to hire to retirees of the PFPF. The Board of Trustees had opportunity to act in conflict of OGC's counsel, so OGC has issued a binding opinion. When two agencies have a conflict, OGC must resort to resolving it. This is a legal question – whether a retiree of the PFPF can be reemployed by JEA and continue to receive pension benefits from the PFPF Board of Trustees. The answer is yes.

Lawsikia Hodges continued to discuss the opinion, noting that it supplements and clarifies the Linn opinion by adding basic statutory construction principles. Section 121.105 speaks to retirees reemployed by “the City”. If you are employed by “the City”, retired, then reemployed, you can no longer receive your pension check. There are slivers of certain City positions carved out. The OGC opinion cites two Supreme Court cases, a Florida Supreme Court case, and a District Court case. When the law is clear, you take what the legislature said.

Lawsikia Hodges said that if they wanted reemployment of PFPF pensioners to be prohibited, it would've simply been written into the statute like it was written into GEPP's plan. Regarding GEPP in chapter 120, “the City” is defined to include JEA, PFPF, and JHA. She said that OGC does not believe Board action today is necessary. The force of this opinion is law and is binding on the PFPF, JEA, and everyone. There is no need to accept or adopt it. This is binding through the Charter.

Lawsikia Hodges said that in July 2021, Timothy Johnson sent affidavits to members using a definition of “the City” different from the definition being presented in OGC's binding opinion today. She said a clarification should be issued so that members would not be confused as to what “the City” means.

Chris Brown said that the affidavit should spell out where retirees may work, in terms of all the independent agencies. So a retired JSO police officer could work for the PFPF.

Lawsikia Hodges said that is exactly what happened with John Keane.

Terry Wood said that he retired from the City as a City Council member, and was later hired by the constitutional Office of Elections. He said if he works longer than X hours, his pension would be suspended.

Lawsikia Hodges said that the constitutional offices are part of the entity known as “the City” of Jacksonville, distinguished from independent authorities.

Terry Wood asked if JEA was sold, who would get the assets.

Lawsikia Hodges said that is a different question – JEA operates for the benefit of the City.

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Michael Lynch said that he wanted to point out that it is shocking to him that we made the same public statements for years, only to be told we were wrong. Inside of 20 months, everything that was argued has been flipped on its head, and now they accept that.

Richard Patsy asked for clarity – if any JSO of JFRD retiree could work for JEA and continue to receive their pension.

Lawsikia said that is correct.

Richard Patsy asked to clarify – that they don't need anyone's permission.

Lawsikia Hodges said that is right. The reason for that is that is what your Plan says – it was negotiated. The Board of Trustees' role is to administer.

Richard Patsy asked to clarify – a JSO or PFPF retiree cannot work at the mayor's office and continue to receive their pension.

Lawsikia Hodges said that is right.

Richard Patsy asked what does 'bona fide' mean regarding separation.

Lawsikia Hodges said that portion of the Linn opinion was not adopted. 'Bona fide' separation means a true break in employment.

Richard Patsy asked if 24 hours of separation would count as 'bona fide' separation.

Lawsikia Hodges said that it would be fact specific. She said that what we do know is that a whole year of separation, with no connection to the prior employer would be a 'bona fide' separation.

Chris Brown asked if there was a formula or rule of thumb.

Bob Sugarman said 'bona fide' separation is not clearly defined, and is fact specific. However, in private rulings, there have been a couple requirements. There must be some hiatus, which is usually 6 months. The second requirement is most key – there must be no discussion, expectation, or arrangement for reemployment.

Chris Brown said that from an administrative standpoint, Timothy Johnson will be tasked to work through this on an individual basis. He said he does not want it to be hard on Mr. Johnson.

Lawsikia Hodges said this has already been done on a fact specific basis. Several retirees had contracts with the City, with different sets of facts. She said she wrote a 200-page memo after gathering the facts to figure out if they had truly separated from employment. The system worked – due diligence was done.

Chris Brown said this is all the reason for the affidavit to be more specific. Does the member have a job with "the City" or an independent agency?

Michael Lynch said that if JEA and independent agencies are the same as Publix, they do not need to be included. It should just say "the City".

Lawsikia Hodges said she completely agrees with Michael Lynch. There is no reason to list the independent agencies.

Lawsikia Hodges said that Michael Lynch emailed her a question, "what happens if you have conflicting OGC opinions?". She said this is important to address. She said the opinion before the Board is addressing a different question. The 70-8

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opinion specifically asked whether employees of JEA are employees of “the City”. As of 1970, the Charter provides that JEA employees shall be employees of “the City”. Any law can change. This further provides that JEA employees shall be employees of “the City” unless otherwise provided by Council. In 1970, JEA employees were employees of “the City”. In 1997, the law was changed so that “all employees of the electric system shall be employees of the authority”. City Council otherwise provided.

Lawsikia Hodges said that for OGC to give any sort of legal opinion stating that being an employee of JEA would also mean being employed by “the City” just cannot work under the current interpretation of 121, and under the current, clear language that is in JEA’s charter.

Michael Lynch said he would like to hear Timothy Johnson’s version of the facts.

Timothy Johnson said his version is simple, and is unsure if it makes a difference. He said we now have a binding legal opinion. He said he thinks the record is clear that the City and the PFPF Board of Trustees understood the law to mean something else until May 2021. In April 2016, General Counsel Jason Gabriel wrote an opinion that said we needed to stop John Keane’s pension and recalculate it as if he had joined the GEPP, because the law says that is what he should have done when he was reemployed. It wasn’t long before that when Jason Gabriel, Rita Mairs, and Loree French went to City Council and said that they believe when a retiree is reemployed, their pension should be stopped. There were Federal and State lawsuits, and appeals to the same. If that is not enough evidence, this Board ended up paying \$300,000 in legal fees, and another \$125,000 in settlement costs because the opinion from OGC was exactly the opposite. When Lawsikia Hodges says, “the law is clear”, it was clear up until May 2021. And now it is clear, but in a different way.

Timothy Johnson said that he is not trying to convince the Board of Trustees one way or another, and said let’s make the record clear: up until May 2021, the direction was exactly opposite.

Chris Brown said the Board did not come to this conclusion in August because it was so confusing. The entire lawsuit was mainly built on the opposite premise.

Michael Lynch said this is including – shortly before the resounding loss in court that the Board of Trustees suffered – the litigators for the City took it a step further, and tried to countersue John Keane to repay all his pension benefits, under the same premise. Not only did the Board of Trustees spend half a million dollars of assets on this flawed interpretation at the time, but also we went after a pensioner under false pretenses. He said he questions whether OGC was lying then, are they lying now, or did they just not know it then – was it that egregious of a misrepresentation of the facts?

Terry Wood said the City over time established the nine or so positions, which are acceptable for reemployment.

Chris Brown added that those exceptions do not apply to independent authorities.

Terry Wood said this is a lot of time and effort for someone to get health insurance.

Richard Patsy asked if the Board should direct Timothy Johnson to engage OGC to recoup those legal fees.

Lawsikia Hodges said she would like to follow up on Michael Lynch’s comment. She said, “It was a mistake”. She said the 1937 act cited in the Keane case was such a clear mistake that it was not intentional. She said that Michael Lynch asked if OGC was lying then or now. She said it was a mistake.

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Chris Brown said there was a third option.

Michael Lynch said the third possibility was an egregious misrepresentation of the facts.

Lawsikia Hodges reiterated that it was a mistake – that is what it was.

Richard Patsy said that in his opinion, he has a problem with OGC being on the 4<sup>th</sup> floor of City Hall, right down the hall from the Mayor's Office. He asked if this "mistake" was driven by political motivations in order to keep this issue in front of the electorate, by the Mayor's Office. He says he has no way of knowing that, however, that would be consistent with his opinion.

Lawsikia Hodges said she cannot answer that question.

### XIII. New Business

Chris Brown said the disability application process should be revisited. The application process is unclear regarding members seeking accommodation with their employer.

Michael Lynch asked what the current application being considered looks like.

Chris Brown said right now, the disability application is tabled by the Advisory Committee. The member did not go through the full accommodation steps at JSO. We need more information.

Timothy Johnson said that the disability application accommodation process is in the form of a checklist, administratively and in substance. As long as we receive the piece of paper, we assume it was talked about. He said we will look at the accommodation process with Bob Sugarman.

Michael Lynch asked Lawsikia Hodges if independent agencies are truly like Publix, if an active police officer could work at the PFPF on his days off, and accrue benefits. He asked if this is not problematic.

Lawsikia Hodges said that the reason why Publix was used as an example was that the restriction is on one specific employer, "the City". Any other employer, whether it be public or private does not matter. Regarding Michael Lynch's question, she said she hesitates to answer because this relates to secondary employment, which is a separate issue. She said she can get the facts from Michael Lynch's scenario, and provide a better response.

Terry Wood asked if a retiree receiving a benefit from GEPP could work for JEA.

Lawsikia Hodges said Chapter 120, which governs the GEPP, prohibits it.

Michael Lynch said that he is still the only Trustee who has not met with OGC three months later.

Michael Lynch asked if a JTA bus driver would be eligible for a time service connection to JFRD as a firefighter.

Lawsikia Hodges said she would not shoot from the hip.

Chris Brown agreed, and said we need more research. There may be specific situations where we need answers. Timothy Johnson needs answers in order to administer the Plan.

Lawsikia Hodges asked Michael Lynch to send her his specific questions.

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XIV. Upcoming Meetings

- a. *Board of Trustees & FIAC Special Meeting – Ethics Training – Friday, February 11, 2022 at 12:00PM*
- b. *Board of Trustees Meeting – Friday, February 18, 2022 at 9:00AM*
- c. *Board of Trustees Meeting – Friday, March 25, 2022 at 9:00AM*

Chris Brown asked to move the March 18<sup>th</sup> meeting to the 25<sup>th</sup>.

Richard Patsy moved to reschedule the March Board of Trustees meeting to March 25<sup>th</sup> at 9:00 A.M., seconded by Terry Wood. The vote passed unanimously.

XV. Adjournment  
10:58 A.M.

Board Secretary

**Summary Prepared By:**

Steve Lundy, Deputy Director  
City of Jacksonville Police and Fire Pension Fund

**Posted:** 02/04/2022

**To be Approved:** 02/18/2022