



# City of Margate

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## Meeting Minutes Employee Benefits Trust Fund

*Chair, James Wilbur*  
*Vice Chair, Joanne Simone*  
*Secretary, Jackie Chin-Kidd*  
*Trustee, Frank Dinatale*  
*Trustee, Adam Sitman*  
*Trustee, Laura Sudman*  
*Trustee, Efrain Suarez*

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Thursday, April 13, 2017

2:30 PM

Commission Chambers

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### CALL TO ORDER

**Present:** 6 - Chair James Wilbur, Vice Chair Joanne Simone, Secretary Jackie Chin-Kidd, Trustee Adam Sitman, Trustee Frank DiNatale and Trustee Laura Sudman

**Absent:** 1 - Trustee Efrain Suarez

### 1) PUBLIC DISCUSSION

*There was no Public Discussion discussed.*

### 2) MINUTES

**A. [ID 2017-240](#) MOTION - APPROVING MINUTES DATED JANUARY 19, 2017**

A motion was made by Vice Chair Simone, seconded by Secretary Chin-Kidd, that this Motion be approved. The motion carried by unanimous vote 6-0.

### 3) INVOICES

**A. [ID 2017-242](#) MOTION - APPROVING INVOICE(S) - MIERZWA & FLOYD, P.A.**

A motion was made by Secretary Chin-Kidd, seconded by Vice Chair Simone, to approve payment of Attorney invoice in the amount of \$382.50. The motion carried by unanimous vote 6-0.

### 4) REPORT FROM ATTORNEY

*The Attorney had nothing to report.*

### 5) REPORT FROM TRUSTEES

*CHAIR WILBUR passed out a copy of the Plan Document. He said that he received a request from a Trustee who wanted to go back and collect a benefit from the time they were in the Deferred Retirement Option Program (DROP), because they were officially retired by the Florida State Statute, though still employed.*

*ATTORNEY MARK W. FLOYD, Mierzwa and Floyd, P.A., responded that the MEBTF did not pay a benefit while an employee participated in the DROP. He explained that when in the DROP, the individual was still employed even if not by the City. He referred to Page 2*

of the Plan Document, which gave a definition of retired or retirement. He explained that retired or retirement meant receipt of a retirement benefit from the Florida Retirement System (FRS). He said that when in the DROP, any pension system including the FRS, considered the employee retired for all purposes. He stated that employees in the DROP had elected to retire but continued to work and accrued no additional benefits. He noted that a pension benefit was being paid, but it was going into a DROP account and was not actually received but was held until such time that the employee actually separated from employment. He explained that the MEBTF used the word received because the benefit was not received until separation. He noted that DROP was also referenced on Page 2 in years of service. He explained that years of service was accumulated full time years of employment with the City including employment during participation in the DROP Program. He noted that in the retirement system, the years in the DROP would not be counted as years of service, because the employee would have already retired; however, the MEBTF did include those years because the employee was still working for the City. He clarified that when an employee was in the DROP, they had not yet retired for MEBTF purposes, though they had for purposes of the FRS. He stated that the MEBTF did not consider the employee retired until they separated from employment and had begun receipt of the FRS benefit. He stated that the employee who made the request did not begin receiving her benefit from the FRS until after she completed her DROP period, which was when MEBTF began paying the benefit; therefore, he saw no reason for any action on the request.

CHAIR WILBUR said that he would let the employee know the Attorney's opinion, because this was the second time the individual brought the question up.

JOANNE SIMONE agreed and felt that the employee might want it in writing from the Attorney.

CHAIR WILBUR referred to Page 2 of the Plan Document said that the wording explaining the FRS caused a lot of confusion. He requested that the Attorney shore up the wording of the Plan Document so it was not so complicated.

ATTORNEY FLOYD stated that it was included in the Plan Documents because they were the requirements for the various classes of participation in the FRS in order to qualify for a normal retirement benefit. He said that only the normal retirement benefit was covered and if someone did not qualify for that they would not qualify for a benefit from the Fund. He noted that now the requirements were a little different for the FRS, but because the MEBTF was a closed plan there would be no new employees or participants who would fall under the new regulations. He stated that the requirements remained current and applicable to any employee who was eligible to receive a benefit from the Fund. He clarified that the reason the wording was placed in the Plan Document was to establish the exact same normal retirement requirements for this Fund as in the FRS. He said that if wanting to shorten it, he suggested saying that the employee had to qualify for a normal retirement from any of the classes of the FRS. He stated that for those individuals that did not understand it, they could be directed to Chapter 121 of the Florida Statutes where the language was contained. He did not agree with doing that because the MEBTF would not have a contained document because it would be relying on the Statute.

MS. SIMONE suggested keeping the language in but adding a note at the bottom.

CHAIR WILBUR said that it could be made plainer.

ATTORNEY FLOYD said that the Plan Document began with definitions designed to lay groundwork for the plan of benefits that followed. He stated that a note could be added to

*clarify that, but the term retired or retirement was defined on Page 2 with years of service defined on Page 3. He said that Page 3 included eligibility for benefits with regard to eligible employee and when they qualified. He noted that the actual Plan was in Section C.*

*ADAM SITMAN felt that the Plan Document was self-explanatory and asked whether this was provided when they received the original forms to fill out for the MEBTF.*

*CHAIR WILBUR said that it would be and it was on the server as well. He stated that with consensus, he could put together a packet including the Plan Document and the brochure along with the forms to provide to employees upon departure.*

*MR. SITMAN said that the brochure explained the same thing about who was eligible, retirement qualification, classes of membership and calculations.*

*CHAIR WILBUR said that he would include all documents in the packet.*

*FRANK DINATALE asked whether he was allowed to give the papers out.*

*ATTORNEY FLOYD responded that they were public record.*

*CHAIR WILBUR stated that he would put the brochure along with the Plan Document in a packet to provide to the department.*

*JACKIE CHIN KIDD suggested adding in brackets a summary of bullet points, such as receipt of FRS benefit, meet age requirement, following the word, "Retired" under the benefit eligibility.*

*CHAIR WILBUR felt that people were confused between the 6 year and 10 year wording.*

*ATTORNEY FLOYD agreed to look into coming up with something better.*

## 6) OTHER BUSINESS

### A. [ID 2017-244](#) ~~MOTION - ELECTION OF OFFICERS~~

*CHAIR WILBUR stated that this item was not needed; therefore, it was being stricken from the Agenda.*

### B. [ID 2017-245](#) MOTION - ELECTION OF CHAIR

**A motion was made by Trustee Sitman, seconded by Vice Chair Simone, to nominate Jim Wilbur as Chair. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

### C. [ID 2017-246](#) MOTION - ELECTION OF VICE CHAIR

**A motion was made by Trustee Sitman, seconded by Vice Chair Simone, to nominate Jackie Chin-Kidd as Vice Chair. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

**D. [ID 2017-247](#) MOTION - ELECTION OF SECRETARY**

*JACKIE CHIN KIDD nominated Joanne Simone, who declined the position.*

**A motion was made by Secretary Chin-Kidd, seconded by Trustee DiNatale, to nominate Adam Sitman as Secretary. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

**E. [ID 2017-241](#) DISCUSSION AND POSSIBLE ACTION - SELECTION OF AUDITING FIRM**

*ATTORNEY MARK W. FLOYD, Mierzwa and Floyd, P.A., said that there were prior discussions regarding the problem between quotes and that an RFP to 5 different auditing firms. He noted that 4 declined to respond to the RFP and to provide a proposal for auditing services. He said that a suggestion was received for another firm, Morrison, Brown, Argiz & Farra, LLC (MBAF), that sent a response yesterday at 2:00 PM He explained that it was not as formal as the others, and that MBAF was also going to decline; however, he spoke with them to explain what the Trust was and wanted and they agreed. He said that the first quote passed out was from Kabat, Schertzer, De La Torre, Taraboulos & Co. (KSDT), Steve Gordon's firm, which was the firm that currently provided the accounting services for the filing of the annual informational return with the Internal Revenue Service (IRS), Form 990, which the Fund provided every year. He stated that KSDT provided an auditing proposal for \$7,500, which included attendance at one meeting to present an audit. He noted that the MEBTF did not have a third party that prepared the financial statements. He explained that the Chair did that work with regard to reconciliation of the accounts, as well as maintaining the accounts. He noted that financial statements were needed for the auditor to perform the audit; however, the auditor could not assemble the financial statements and then audit them. He stated that there would be an accounting fee of \$800 to have those financial statements assembled by an accountant who would then transfer them to the auditor.*

*CHAIR WILBUR questioned whether there was a conflict of interest because this was Steve Gordon's firm.*

*ATTORNEY FLOYD said that there was no conflict with the filing of the Form 990. He added that MBAF also said that if they did the auditing they would also file the Form 990. He clarified that whoever did the auditing could prepare the Form 990 fairly easily because they already would have the information. He noted that it was the compiling of the financial statements that was the issue. He stated that someone did not have to be a Certified Public Accountant (CPA) to put together financial statements, and that any accountant could do that. He noted that if Steve Gordon was utilized, it would cost additional money. He suggested that maybe someone from the City could do that. He said that he had other Funds that self-administered without a third party administrator. Attorney Floyd explained that the second proposal was from Jason Weinrub, Morrison, Brown, Argiz & Farra, LLC, (MBAF) who would charge \$12,000 for an audit. He said that if the Fund wanted MBAF to go back to prior years, it would be 50 percent less. He noted*

that MBAF could also do a review, which was not as comprehensive as an audit, for \$8,000.

CHAIR WILBUR noted that the contract said an audit was needed.

ATTORNEY FLOYD clarified that a review would require an Amendment to the Trust Document. He stated that Steve Gordon's company provided their proposed Engagement Letter, which just needed to be signed. He stated that the Engagement Letter outlined the objectives of the audit. He noted that if the MEBTF wanted more meetings to be attended, that could be done but the MEBTF would be billed at an hourly rate. He referred to Page 5, the last paragraph, indicated the proposal of \$7,500, which did not include the accounting fee of \$800. He noted that it did include preparation of Form 990. He said that Steve Gordon had always served the MEBTF well. He noted that his firm had approximately 35 Trust Fund clients and only 3 different auditing firms serve them.

CHAIR WILBUR reiterated that this was being done because it was contractual between the City and the MEBTF.

ATTORNEY FLOYD suggested May 31, 2017, the end of the fiscal year, as the audit date.

CHAIR WILBUR questioned how long the \$7,500 proposal was good for.

ATTORNEY FLOYD said that it was for this year; however, if the Board wanted to do two years KSDT could be approached to see if they would charge half the price.

**A motion was made by Trustee Sudman, seconded by Secretary Chin-Kidd, to accept KSDT as selection to perform the audit in the amount of \$7,500 for one year. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

CHAIR WILBUR noted that a motion was needed from the Board authorizing himself to work with Attorney Floyd on the financial statements issue not to exceed \$1,000.

**A motion was made by Secretary Chin-Kidd, seconded by Trustee DiNatale, authorizing Chair Wilbur to work with Attorney Floyd on the financial statements issue not to exceed \$1,000. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

#### **F. [ID 2017-248](#) DISCUSSION AND POSSIBLE ACTION - DEATH BENEFIT**

CHAIR WILBUR mentioned that former Public Works employee John Petroglia passed away in March. He noted that John's son filed a death certificate and the only beneficiary from 2002 was his wife. He explained that John's wife would be eligible for \$168 in benefits for the months he was alive.

**A motion was made by Trustee Sudman, seconded by Trustee Sitman, that a**

**death benefit of \$168.00 be paid to John Petroglia's wife and beneficiary. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

**G. [ID 2017-249](#) DISCUSSION AND POSSIBLE ACTION - 2017 BENEFIT**

*CHAIR WILBUR (briefly left the room to get a document from his desk). He said that he received a phone call from Michael Mack, Parks and Recreation, and read a letter into the record dated February 16th, 2017, to Chair Wilbur's attention. He read that Mr. Mack wished to file an appeal for the MEBTF disbursement for 11 months in 2016, and that he had a knee replacement in August 2016, and was rehabbing until January 27th. Chair Wilbur said that the original application was attached with proof of his retirement, as well as proof of his deduction for his Social Security benefit Medicare. He stated that Mr. Mack's retirement date was January 2016. He clarified that the original application was not notarized until February 2017.*

*ATTORNEY MARK W. FLOYD, Mierzwa and Floyd, P.A., said that there was a provision in the Plan Document that stated retroactive payments would not be made for more than one year from the date of the completed application for benefits was submitted. He noted that the application was submitted in February; therefore, the payment could go back to March 1st.*

*CHAIR WILBUR mentioned the section about submitting the paperwork.*

*ATTORNEY FLOYD said that was up to the Board's discretion.*

*JACKIE CHIN KIDD asked whether two years was paid the first year.*

*ATTORNEY FLOYD explained that the first year the employee applied, the MEBTF paid from the first day of the first month following the retirement separation from service. He noted that the first day of the first month through the end of that year, plus the next 12 was prepaid. He explained that had Mr. Mack applied timely, he would have received a check in January.*

*CHAIR WILBUR asked what the Board wanted to do in reference to approving 12 months of benefit.*

*ATTORNEY FLOYD noted that exceptions were created before.*

*CHAIR WILBUR said that there had been individuals with health issues previously.*

*ATTORNEY FLOYD noted that there were two issues involved. He stated that the first issue was that it was an untimely application. He said that if accepting the application, the second issue was the retroactivity was limited to March 1, 2016, because it was a prohibition. He said that if the application was received timely, he would have received 23 months of benefits; however, he lost a month because he did not submit it until February. He clarified that he would have 10 months for 2016 and 12 months for 2017.*

*CHAIR WILBUR agreed.*

*ATTORNEY FLOYD noted that was because it was his first time applying.*

*CHAIR WILBUR clarified that the benefit would be for 22 months @ \$101 per month.*

*JOANNE SIMONE questioned whether he was one year behind in submitting.*

*CHAIR WILBUR explained that the application was due by November 15th; however, time was given to provide the correct supporting paperwork.*

*ATTORNEY FLOYD clarified that he was only 3 months late.*

*CHAIR WILBUR stated that Mr. Mack was entitled to \$1,515.*

*MS. SIMONE asked whether Mr. Mack applied after surgery.*

*CHAIR WILBUR clarified that he applied following rehab.*

**A motion was made by Trustee Sudman, seconded by Trustee DiNatale, to Award Mr. Mack a benefit of \$1,515. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

*LAURA SUDMAN suggested having individuals fill out the MEBTF application in Human Resources (HR) when retiring.*

*CHAIR WILBUR said that he would discuss it with HR.*

*ADAM SITMAN asked whether the elections could be redone for the officers, because he would not be able to accept the nomination of Secretary.*

*JACKIE CHIN KIDD said that she was willing to fill the Secretary position if Joanne Simone would remain Vice Chair.*

**A motion was made by Trustee Sitman, seconded by Trustee Sudman, to reconsider the vote on the election of the Secretary and the Vice Chair. The motion carried by a unanimous vote 6-0.**

**A motion was made by Chair Wilbur, after passing the gavel, seconded by Trustee Sitman, to nominate Efrain Suarez as Vice Chair. Chair Wilbur later withdrew his motion.**

**A motion was made by Secretary Chin-Kidd, seconded by Trustee Sudman, to nominate Joanne Simone as Vice Chair. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

**A motion was made by Trustee Sitman, seconded by Trustee DiNatale, to nominate Jackie Chin Kidd as Secretary. The motion carried by the following vote:**

**Yes:** 6 - Chair Wilbur, Vice Chair Simone, Secretary Chin-Kidd, Trustee Sitman, Trustee DiNatale and Trustee Sudman

**Absent:** 1 - Trustee Suarez

## 7) SCHEDULE NEXT MEETING

*ATTORNEY MARK W. FLOYD, Mierzwa and Floyd, P.A., stated that the regular meeting schedule was for June, September, December and March, which then changed and became a conflict for him. He said that June, September, December and March was agreeable to him.*

*CHAIR WILBUR stated that the next meeting would be June 15th, 2017, at 2:30 PM.*

## ADJOURNMENT

*There being no further business, the meeting adjourned at 3:29 PM.*

*Respectfully submitted,*

*Transcribed by Carol DiLorenzo*

\_\_\_\_\_  
*Jackie Chin-Kidd, Secretary*

*Date:*\_\_\_\_\_