

**BOARD OF PENSION TRUSTEES
FOR THE
CITY OF JACKSONVILLE RETIREMENT SYSTEM
COMMITTEE FOR BOARD RULES AND CODE CLARIFICATIONS (BRACC)
March 23, 2021 at 1:30 PM
City Hall Conference Room 3B, with Virtual Meeting Access
AGENDA**

1. CALL TO ORDER

2. PUBLIC COMMENT

3. MINUTES

- a. Review minutes from February 24, 2021 meeting

4. NEW BUSINESS

- a. Update on Rehired Retiree Benefits
 - 1. Feedback from legal on outstanding questions
 - 2. List of Examples
 - 3. Randy Parker active death case
 - 4. Next steps: draft rules, actuarial review, other

5. OLD BUSINESS

NA

6. INFORMATION

Next meeting TBD

7. PRIVILEGE OF THE FLOOR

8. ADJOURNMENT

Join Zoom Meeting

<https://zoom.us/j/99667140783?pwd=TDdFT1pLTVV5ZTF0aGtmeC9ZcVpKQT09>

Meeting ID: 996 6714 0783

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One tap mobile

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**BOARD OF PENSION TRUSTEES
FOR THE
CITY OF JACKSONVILLE RETIREMENT SYSTEM
Committee on BRACC**

February 24, 2021

MINUTES

1:00 PM, held in Person in City Hall Conference Room 3B and also via Zoom

Committee Members Present

Joey Greive
Valerie Gutierrez
Diane Moser

Other Board members Present

NA

Staff Present

John Sawyer, OGC
Tom Stadelmaier, Pension Administrator

Others Present

Scott Wilson (via Zoom)

1. CALL TO ORDER

Mr. Stadelmaier called the meeting to order at about 1:05 PM.

2. PUBLIC COMMENT

None

3. MINUTES

Ms. Moser nominated Mr. Greive as Chair of the BRACC. Ms. Gutierrez seconded the motion. There was no discussion and a vote was taken. The motion passed unanimously.

Ms. Moser motioned to approve the minutes. Ms. Gutierrez seconded the motion. There was a brief discussion that included Ms. Moser commenting that more detailed documentation of discussions will be helpful as the committee reviews the questions that will require decisions. Mr. Greive took a vote and the motion passed unanimously.

4. NEW BUSINESS

Mr. Stadelmaier and Mr. Greive provided an update on the questions discussed by the group in the last meeting and reviewed the outstanding questions. Mr. Greive further commented on the question of the ability to distinguish the difference between a rehired retiree and a term-vested person and thought this was something the Board should review further. Ms. Gutierrez inquired about what other plans do regarding rehired retirees.

OGC is reviewing the original questions and the related topics raised by the Board. OGC review includes John Sawyer, Sean Granat and outside expertise as well. Mr. Stadelmaier will report back to the committee on the feedback provided by legal.

Mr. Stadelmaier also has received some additional examples from Ms. Moser and Employee Services and is compiling a summary of known cases by putting them into different categories. It was acknowledged by Ms. Moser and Mr. Stadelmaier that it is challenging to identify a complete list but that we are working to refine it. In response to a question from Ms. Gutierrez, Mr. Stadelmaier said he did have some examples from JEA and that he has reached out to them to see about getting additional examples. It may require a more extensive audit and reporting effort to identify more cases. The list of known rehired retirees will be a work-in-progress and added to and maintained by the Pension Office to assist in the review by the committee.

Mr. Stadelmaier reviewed with the BRACC the case of the recently deceased City employee Randy Parker. Mr. Parker retired from the City in 2011 with a benefit that included a lump-sum of a 15% PLOP. He was rehired in 2016 and began to receive payroll deductions in the DB Plan again which continued until he died in January 2021. Under current practice, based on code and Board rules, the Pension Office does not allow rehired retirees that took a PLOP or BACKDROP to rejoin the Plan as active employees. The Board will need to decide on the proper benefit for the surviving spouse. At a minimum, the spouse should receive 75% of the benefit already awarded to the employee (plus COLA accruals). The committee members agreed this was an appropriate step for now in order to begin survivor benefits for the spouse as a starting point. Mr. Stadelmaier reviewed options from there which included a refund of DB contributions from the point of rehire, a recalculated pension benefit (potentially taking into account the PLOP already received), and potentially a DC benefit considering the rehired retiree was eligible for the DC Plan and would have been put in the DC Plan based on being not eligible for additional DB benefits due to taking the PLOP. It was discussed that DC benefits are outside the scope of the Board. Mr. Greive mentioned potential DC benefits could be reviewed by the DCPAC and DSP.

Mr. Stadelmaier reported that following the review of rehired retiree benefits that he will provide a redlined version of the Board Rules to include rehired retiree rules as well as other updates for BRACC review.

5. **OLD BUSINESS**

NA

6. **INFORMATION**

The next meeting will take place after legal feedback is received.

7. **PRIVILEGE OF THE FLOOR**

NA

8. **ADJOURNMENT**

Mr. Greive adjourned the meeting at about 1:58 PM.

DRAFT Legal input on rehired retiree pension benefits questions, 3/16/2021

Legal review from Sean Granat, John Sawyer and Jim Linn

Question 1: If a member elects early retirement, does the benefit formula in effect on the early retirement date apply to the member that is a rehired retiree? See 120.206(f)

No. Legal input is that 120.206(f) likely was not contemplating rehired retirees but was intended to preclude members who retired early from claiming benefits in excess of the early retirement benefits in effect at the time they retired based on later plan amendments.

While the Board could interpret 120.206(f) as locking in the 2.0% early-retirement accrual for a rehired retiree, the better reading is that a new calculation is directed under 120.209(e) as long as the rehired retiree gained an additional year of service.

Additionally, the view was expressed that how a previous individual case was handled does not create a precedent. This is especially true if the approach used was not considered and documented by the Board.

Question 2: Can a rehired retiree elect PLOP or BACKDROP? See 120.209(c)

Yes. There does not appear to be a specific prohibition on a rehired retiree electing PLOP or BACKDROP. However, in view of the potential additional cost of the BACKDROP for certain reemployed retirees, the Board should consider adopting rules on the calculation of BACKDROP benefits for reemployed retirees.

Sec 120.209(c) would assist in giving the Board the option to make a rule around how to handle PLOP and BACKDROP rights for rehired retirees. (Ideally the code should then reflect what the Board adopts as practice as well.)

It was noted in discussion that PLOP does NOT allow for a higher actuarial value but that BACKDROP can create a much higher actuarial value for a benefit than the standard formula depending on the circumstances. There are situations where a BACKDROP option for a rehired retiree can dramatically increase the value of the pension.

There is general agreement that separated vested members that have never collected a pension benefit from the Plan should be allowed PLOP and BACKDROP rights and that has been the common practice.

Question 3: What is the formula for calculating retirement benefits for a rehired retiree in the GEPP? Consider periods of re-employment of less than one year and one year or greater. See Board Rules, Part IX(3) and 120.209(c)

Legal input and previous board understanding favors a completely fresh benefit calculation for retirees who are reemployed for more than one year, not the incremental calculation outlined in the current Board rules. An incremental calculation could be allowed using 120.209(e) and 120.206. However the

code does not clearly spell-out this type of calculation process so a new calculation using the same formula is a cleaner approach.

Question 4: If a retiree has previously taken a PLOP or BACKDROP and is later rehired, can the Board prohibit future participation in the Plan upon rehire?

Yes. Especially since that has been a consistent and established practice of the Board. Codification of this Board rule is recommended to avoid future confusion.

There was some discussion that the “irrevocable” nature of the PLOP and BACKDROP elections could be argued as just meaning that a retiree could not come back and change the election after retirement. However the legal input was the Board interpretation that PLOP and BACKDROP prohibit future re-entry to the pension plan (a rehired retiree could join the DC Plan) is acceptable and eliminates inherent problems that could be presented by an employee taking a lump-sum benefit and then later getting a fresh benefit calculation that does not consider that a lump-sum was previously taken.

Question 5: For rehired retirees that have already collected benefits from the Plan, what about the concept of reducing any newly calculated benefits for payments already collected from the Plan?

This is a common practice among pension plans to reduce the new benefit (to be in line with the total benefit the Plan intended) or allow for the rehired retiree to pay-back collected benefits in order to get the full amount of the newly calculated benefit. However this practice is not specified in the COJ code. Making this change could potentially be a Board rule; however, the legal input is that this is more of a policy decision that belongs to Council and should be instituted as a change in code if desired.

Question 6: What rehired retiree benefits are subject to collective bargaining?

As a general rule, pension benefits are a mandatory subject of collective bargaining, and must be bargained. If the Code, or a Board rule, is changed so that it modifies (for better or worse) an existing benefit of a union employee, it must be bargained. Because current employees can rely on the present-day rules and practices regarding rehired retirees, modification of those rules and practices require bargaining—but only to the extent that the modification will impact members of the union. For example, a change to benefits of a union retiree who is rehired as an appointed employee can probably be made without collective bargaining because the change would only affect appointed employees. A change to benefits of a retiree who is rehired to a union position must be bargained.

Each contemplated change to pension benefits should be analyzed to determine whether collective bargaining is required.

Question 7: What are the actuarial and practical implications of the benefits granted to rehired retirees?

Actuarial review of proposed Board rules on reemployment of retirees is recommended. It is generally agreed that there are implications in the outcome that increase the Plan's liability; however, the overall impact is not likely to be material as long as the rehired retiree population remains small. There are likely individual rehired retirees, especially rehired retirees that rejoin the Plan at higher-level positions, that could benefit significantly from allowing completely fresh benefit calculations that do not account for payments already received from the Plan.

Question 8: Is transfer from the DB Plan to the DC Plan an option for reemployed retirees?

No. 120.202(e) states: "A *new employee* who elects the DB plan will have an additional option after the first five years of employment to convert to the DC plan at any time prior to retirement from the City." Because reemployed retirees who have previously received benefits from the DB Plan are not "new employees," and a transfer to the DC Plan for these retirees could result in additional cost to the DB Plan, such transfer should not be allowed.