

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
MINUTES OF FIRE FIGHTERS' MEETING
SEPTEMBER 11, 2007**

The regular meeting of the Tucson **Fire** Public Safety Personnel Retirement System Board was held on Tuesday, September 11, 2007, on the 5th Floor, Finance Conference Room, City of Tucson, City Hall, 255 W. Alameda, Tucson, Arizona. Chair Robert Walkup called the meeting to order at 9:00 a.m.

1. ROLL CALL

Board Members:

Present:	Robert Walkup	Chair
	Joe Ladenburg	Co-Chair
	Marion Pickens	Member
	Mike McKendrick	Member
	Roger Tamietti	Member
Staff Present:	Elizabeth Martinez – Police and Fire Board Secretary	
	David McEvoy - Police and Fire Board Attorney	
Also Present:	Mike Gurr – Police Board Member	
	Tom Garrison – Police Board Member	
	Kathy Maish – Executive Assistant Finance Department	
	Randy Ogden – Fire System Member – Left at 9:15 A.M.	
	Dan Uthe – Fire System Member – Left at 9:15 A.M.	
	Edward Deschaines – Fire System Member- Left at 9:15 A.M.	
	Mike Jones – Fire System Member - Left at 9:15 A.M.	
	Maria Armstrong – Fire Department - Left at 9:15 A.M.	
	Tim Petersen – Police System Member – Left at 9:35 A.M.	
	Frank Kingman – Police System Member – Left at 9:20 A.M.	
	Jack Wixon – Police System Member – Left at 10:17 A.M.	
	Thomas Stillwell – Mr. Wixon’s Attorney – Left at 10:17 A.M.	
	Cindy Bezaury – Human Resources - Left at 9:15 A.M.	
	Ron Webb – Human Resources Left - at 9:15 A.M.	
	Jesena Godfrey – Human Resources Left - at 9:15 A.M.	

2. POLICE CONSENT AGENDA: ITEMS A – H

A. MINUTES FOR APPROVAL – 08/14/07

B. PENSION PAYROLL – Addition of Normal Service Retirement for Martín Garcia out of DROP in the amount of \$3,086.23. Addition of Normal Service Retirement for Eugene Gonzales out of DROP in the amount of \$4,084.09. Addition of Normal Service Retirement for Fernando Valencia in the amount of \$2,598.18.

C. NORMAL SERVICE RETIREMENT

Martín Garcia – Last day worked 08/21/07 – Pension effective 09/01/07

Eugene Gonzales – Last day worked 08/02/07 – Pension effective 09/01/07

Fernando Valencia– Last day worked 08/30/07 – Pension effective 09/01/07

D. DEFERRED RETIREMENT OPTION PLAN

Mark L. Zbojnowicz – Election to participate in the DROP 08/31/07

E. PRE-EMPLOYMENT PHYSICAL REQUIREMENT

DOH 04/19/07

PSPRS: 08/17/07 Class 07-2

Abbott Bowie	Passed Pre-Employment physical
Rodolfo Dominguez	Passed Pre-Employment physical
Manuel Guerrero	Passed Pre-Employment physical
Rueben Guido	Passed Pre-Employment physical
Daniel Guzman	Passed Pre-Employment physical
Robert Hunt	Passed Pre-Employment physical
Brianne Johnson	Passed Pre-Employment physical
Conor Keating	Passed Pre-Employment physical
Jason Kerns	Passed Pre-Employment physical
Andrea Leonard	Passed Pre-Employment physical
Anissa Lozano	Passed Pre-Employment physical
Aaron Marquis	Passed Pre-Employment physical
Randall Morales	Passed Pre-Employment physical
Marcos Santa Maria	Passed Pre-Employment physical
Jeffrey Swenson	Passed Pre-Employment physical
Samuel Thompson	Passed Pre-Employment physical
Michael Thurston	Passed Pre-Employment physical
Martin Ward	Passed Pre-Employment physical
Aaron Wine	Passed Pre-Employment physical

F. TRANSFER OF SERVICE

James Forbes – Transfer from Tucson Police to Tucson Airport Police –0.5613 years in the amount of \$1,434.25

- G. REDEMPTION OF PRIOR SERVICE
Mark Napier – Redemption of prior service from Marshaltown Police 3.667 years in the amount of \$92,820.00
Tony Sabori – Redemption of prior service from U.S. Border Patrol 1.780 years in the amount of \$35,346.00.

- H. RETAINER FEE OF \$400 PLUS COSTS-DAVID McEVOY, ATTORNEY

This is a police board item no action required by the fire board.

3. FIRE CONSENT AGENDA: ITEMS A – F

- A. MINUTES FOR APPROVAL – 08/14/07
- B. PENSION PAYROLL – Addition of Normal Service Retirement for Alan J. Moritz out of DROP in the amount of \$ 7,876.57.
- C. NORMAL SERVICE RETIREMENT
Alan J. Moritz – Last day worked 08/30/07 – Pension effective 09/01/07
- D. TRANSFER OF SERVICE
David Greenleaf – from Tucson Supplemental Retirement System to Tucson Fire 4.361 Years in the amount of \$36,627.32.
- E. EXPENDITURE STATEMENT IN THE AMOUNT OF \$150.00 FOR ANNUAL PHYSICAL for Marni Plaster by Dr. Martha Riggers, MD in Bellevue, Washington
- F. RETAINER FEE OF \$400 PLUS COSTS-DAVID McEVOY, ATTORNEY

MOTION by Mr. McKendrick, seconded by Mr. Tamietti that Fire Board Items A – F are adopted and the appropriate action taken. Motion **CARRIED** by a roll call vote of 5-0.

Item 8 and 9 were taken out of order.

- 8. **HEARING - TUCSON FIRE PREVENTION INSPECTOR VS. CIVILIAN FIRE CODE COMPLIANCE INSPECTOR - EXECUTIVE SESSION Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2]**

**and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03
(A [3 & 4])**

Fire – Attachments
Edward Deschaines

There was no executive session under this item.

**9. HEARING - TUCSON FIRE PREVENTION INSPECTOR VS. CIVILIAN FIRE
CODE COMPLIANCE INSPECTOR - Board Direction Regarding Executive
Session**

Fire
Edward Deschaines

Mr. McKendrick requested that item number 8 and 9 be taken out of order and heard first in order to accommodate all of the persons in attendance at the Board meeting.

Mr. Walkup agreed.

Mr. McKendrick stated that this item was put on the agenda at the request of the P.S.P.R.S. Retirement System in Phoenix. They requested this item put on the agenda to determine if Mr. Edward Deschaines, retired Fire Prevention Inspector, was in the same position as a Code Compliance Inspector that he had retired from.

Mr. McEvoy stated that with regard to Arizona Revised Statute 38-849 D and the letter received by Ms. Tracey Peterson in Phoenix dated July 20, 2007. When she choose to use the phrase "substantially similar" to indicate that the legislature would have used that phrase in ARS Section 38-849(D), rather than "the same" if it intended the statute to be interpreted in the manner suggested in her letter to you, bells went off in his head. In fact, ARS Section 10-1004(C) uses the words "the same or substantially similar way" which further underscores the distinction in the two sets of words, i.e., "the same" and "substantially similar". If they meant the same thing, then it would be redundant to say "the same or substantially similar way". In addition, the dictionary defines the words "same" and "similar" differently, let alone adding the qualifier "substantially" before "similar" as Ms. Peterson does in her letter. He disagreed with Ms. Peterson's inference that the phrases "the same" and "substantially similar" are the same. The second issue is even if you take the definition as meaning the same thing the letter dated August 31, 2007, from Daniel Uthe points out the differences between the two positions points out that there are more differences than similarities and this letter demonstrates that there two positions are not substantially similar.

Mr. McKendrick added that in the Tucson Fire Departments' Standard operating procedures manual it states "that citations shall be issued only by uniform fire personnel" on page 4 Of 6 under roman numeral 11 number 2, the update was added in 2002. He further stated that Mr. Deschaines and his counterpart are not given the authority to write citations.

MOTION by Mr. McKendrick, seconded by Mr. Tamietti that the Fire Department is in compliance with A.R.S. # 38-849 (D) and that a Fire Code Compliance Inspector is not the "same" position as Fire Prevention Inspector. Motion **CARRIED** Unanimously

4. APPLICATION FOR DISABILITY RETIREMENT EXECUTIVE SESSION
Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])

Police
Frank Kingman
Tim Peterson

This is a police board item no action required by the fire board.

5. APPLICATION FOR DISABILITY RETIREMENT
Direction regarding Executive Session

Police
Frank Kingman
Tim Peterson

This is a police board item no action required by the fire board.

6. APPLICATION FOR NORMAL RETIREMENT EXECUTIVE SESSION
Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])

Police
Jack Wixon

This is a police board item no action required by the fire board

7. APPLICATION FOR NORMAL RETIREMENT PENDING APPLICATION FOR PERMANENT ACCIDENTAL DISABILITY RETIREMENT
Direction regarding Executive Session

This is a police board item no action required by the fire board.

10. CONSIDERATION OF RULE 16 – ANNUAL PHYSICAL EXECUTIVE SESSION Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])

Police

Pleas Ransom – DOH: 01/19/87 DOD: 10/30/98 Last Physical: 03/31/06

There was no executive session under this item.

11. CONSIDERATION OF RULE 16 – ANNUAL PHYSICAL
Board Direction Regarding Executive Session

Police

Pleas Ransom

This is a police board item no action required by the fire board.

12. ELECTION

Police – update

This is a police board item no action required by the fire board.

13. OCTOBER 18, 2007 - POLICE AND FIRE SEMINAR

Police & Fire - Update

Ms. Martinez stated that there is a retirement seminar scheduled for October 18, 2007 at the Fire Prevention Center 797 E. Ajo Way, from 8:00 a.m. to 4:00 p.m. There will be refreshments provided by the Police and Fire Unions.

14. BOARD STAFF

Police & Fire - Update

Ms. Martinez stated that she spoke with Page Martin from Kutak Rock LLP, the Opinion, regarding the is written and will be presented to the Fund Managers at there September Board Meeting, and the Board will be sent a copy after that meeting.

15. FUND INFORMATION

Police & Fire

This was put on the agenda per the Board's direction to cover general information. There was no fund information for discussion.

16. ADJOURNMENT: 10:23 A.M.

MOTION by Mr. McKendrick, seconded by Mr. Tamietti to adjourn the Fire Board.

The next regular meeting of the Tucson Police and Fire Public Safety Personnel Retirement System Boards is scheduled for **9:00 A.M.** on Tuesday, **October 9, 2007**, in the Finance Department Conference Room, Fifth floor of City Hall, 255 W. Alameda, Tucson, AZ.

Elizabeth Martinez, Board Secretary

Robert Walkup, Chair

VERBATIM TAPE RECORD ON FILE IN THE TUCSON POLICE AND FIRE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM BOARDS' OFFICE LOCATED AT CITY HALL, FINANCE DEPARTMENT, 1ST FLOOR WEST, 255 W. ALAMEDA, TUCSON, ARIZONA - AVAILABLE UPON REQUEST.

