

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
MINUTES OF POLICE OFFICER'S MEETING
SEPTEMBER 11, 2007**

The regular meeting of the Tucson **Police** 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
	Marion Pickens	Member
	Joe Ladenburg	Member
	Mike Gurr	Member
	Tom Garrison	Member
Staff Present:	Elizabeth Martinez – Police and Fire Board Secretary	
	David McEvoy - Police and Fire Board Attorney	
Also Present:	Mike McKendrick – Police Board Member	
	Roger Tamietti – 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

MOTION by Mr. Gurr, seconded by Mr. Garrison that Police Board Items A – H are adopted along with the addition and the appropriate action taken. Motion **CARRIED** by a roll call vote of 5-0.

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

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

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

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

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])

Mr. Gurr requested that the Police board would like to split Item 5 and handle Mr. Kingman right now then go into executive session for Mr. Peterson.

Mr. Walkup agreed.

Police
Frank Kingman

There was no executive session under this item.

Tim Peterson

MOTION by Ms. Gurr, seconded by Mr. Garrison to go into Executive session. Motion **CARRIED** Unanimously.

Mr. Stillwell said that as Mr. Wixon's representative he objected to the board going into executive session prior to him addressing the board.

Mr. McEvoy stated that the board could go into executive session as provided by law anytime it sees the need to.

Mr. Gurr stated that he wanted to go into executive session to discuss the paperwork that has been provided to the board.

EXECUTIVE SESSION: 9:15 A.M. to 9:35 A.M.

Tucson **Police** Public Safety Personnel Retirement System Board
September 11, 2007 – 9:15 A.M. – 9:35 A.M.

City of Tucson Finance Department Conference Room
Fifth Floor of City Hall 255 W. Alameda, Tucson, Arizona

The Board members were instructed on the confidentiality requirements.

Board Members

Present:	Mayor Walkup	Chair
	Joe Ladenburg	Member
	Marion Pickens	Member
	Mike McKendrick	Member
	Roger Tamietti	Member
	Tom Garrison	Member
	Mike Gurr	Member

Also Present: David McEvoy - Police and Fire Board Attorney
Elizabeth Martinez – Police and Fire Board Secretary
Kathy Maish – Finance Executive Assistant

It was noted that Executive session Item, #4. Application for Disability Retirement (Tim Peterson) and Item #6. Application For Normal Retirement Executive Session (Jack Wixon) was heard in executive session.

MOTION by Ms. Pickens, seconded by Mr. Gurr to go back to regular session. Motion **CARRIED** Unanimously.

5. APPLICATION FOR DISABILITY RETIREMENT
Direction regarding Executive Session
Police
Frank Kingman

MOTION by Mr. Gurr, seconded by Mr. Garrison to request that Mr. Frank Kingman go to the Board Physician for a review to determine if he is eligible for Permanent accidental disability retirement. Motion **CARRIED** unanimously.

Tim Peterson

MOTION by Mr. Gurr, seconded by Mr. Garrison to request that Mr. Tim Petersen go to the Board Physician for a review to determine if he is eligible for Permanent accidental disability retirement. Motion **CARRIED** unanimously.

**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 – Attachments

Jack Wixon

MOTION by Ms. Gurr, seconded by Mr. Garrison to go into Executive session. Motion **CARRIED** Unanimously.

Mr. Stillwell said that as Mr. Wixon's representative he objected to the board going into executive session prior to him addressing the board.

Mr. McEvoy stated that the board could go into executive session as provided by law anytime it sees the need to.

Mr. Gurr stated that he wanted to go into executive session to discuss the paperwork that has been provided to the board.

EXECUTIVE SESSION: 9:54 A.M. to 10:18 A.M.

Tucson **Police** Public Safety Personnel Retirement System Board
September 11, 2007 – 9:54 A.M. – 10:18 A.M.

City of Tucson Finance Department Conference Room
Fifth Floor of City Hall 255 W. Alameda, Tucson, Arizona

The Board members were instructed on the confidentiality requirements.

Board Members

Present:	Mayor Walkup	Chair
	Joe Ladenburg	Member
	Marion Pickens	Member
	Mike McKendrick	Member
	Roger Tamietti	Member
	Tom Garrison	Member
	Mike Gurr	Member

Also Present: David McEvoy - Police and Fire Board Attorney
Elizabeth Martinez – Police and Fire Board Secretary
Kathy Maish – Finance Executive Assistant

It was noted that Executive session Item #6. Application For Normal Retirement Executive Session (Jack Wixon) was the only item heard in executive session.

MOTION by Mr. Gurr, seconded by Mr. Garrison to go back to regular session. Motion **CARRIED** Unanimously.

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

Police

Jack Wixon

A. Application for Normal Retirement pending Application for Disability Retirement.

Mr. Stillwell, Mr. Wixon’s attorney, stated that he was going to first recap where Mr. Wixon’s application is and where it has been. He stated that Mr. Wixon’s accident first occurred in 2001 and went on to explain his perception of all of the other events that had occurred. He stated that when they came to the meeting in July 2007, Assistant Chief Allen attended and gave testimony to the fact that Mr. Wixon’s statements regarding his officer’s report were not true and the boards choose to continue Mr. Wixon’s application pending investigation by the Attorney generals office. He felt that was nothing more than a he said/she said instance and these types of things occur on a regular basis in the work place. He further said that then board decided to refer the matter for possible criminal prosecution for his supervisor telling him not to fill out a report and a report was filled out but not on that same day. Sixty days have gone by and Mr. Wixon received an e-mail from the internal affairs division who wanted to speak to him regarding the P.S.P.R.S. matter. Mr. Stillwell felt that if internal affairs fires Mr. Wixon for insubordination or for lying at that first meeting he would no longer be eligible for a permanent accidental disability pension, a catch 22 for Mr. Wixon.

Mr. Stillwell stated that he did some investigating, spoke with the P.S.P.R.S. office in Phoenix, and felt that the board has the authority to grant a normal retirement while Mr. Wixon disability retirement is pending. He said that he is not going to ask the board to do that today. What he requested was that the board act on the Permanent Accidental Disability Retirement, which has been pending for two months. He reiterated that the board had unfinished business from two months ago and asked the board how long were they going to wait to vote. What happened does not even rise to the level of a crime and certainly does not rise to the level of denying a 20-year police officer a disability retirement in the face of overwhelming evidence. How does the board know how long it will be before the attorney general decides if there is probable cause for a prosecution. If the board is not going to act on the permanent accidental disability today, Mr. Stillwell asked that the board exercise its discretion and allow him to have a regular retirement pending his disability retirement outcome. He further stated that Mr. Wixon could not afford to wait.

Mr. Gurr asked Mr. Stillwell if Mr. Wixon was withdrawing the Normal retirement application.

Mr. Stillwell stated that they are asking the Board allow him a normal retirement while his disability application is pending.

Mr. Gurr stated that based on that statement he motioned to go back into executive session.

Mr. Garrison stated that he had difficulty with the fact that Mr. Wixon had applied for a normal retirement and requested that it be approved and keep Mr. Wixon's application for permanent accidental disability application active until the attorney general decides whether to prosecute. He felt that the members have to pick a retirement they cannot apply for more than one benefit at a time.

Mr. Gurr stated that he felt that the board should act on the most recent application and conclude that the application for Permanent Accidental Disability is no longer valid.

Mr. Ladenburg said that he understands what precipitated this application and if the board is going to act on this one, they similarly have to act on the previous application, because procedurally they cannot have two applications submitted at the same time, now and in the future.

Mr. Walkup stated that the Board is not prepared to act on the application for Permanent Accidental Disability. However, right now the Board has a normal retirement application signed by Mr. Wixon.

MOTION by Mr. Gurr, seconded by Mr. Garrison that based on the information presented the Board approve the normal retirement for Mr. Wixon. In addition, given the fact that Mr. Wixon's signature is on the normal retirement application forms, and that Mr. Wixon is aware that this election to accept normal retirement benefits is irrevocable, the Board accepts the application for normal retirement, therefore, rendering Mr. Wixon's application for Permanent Accidental Disability null and void because of his application for a Normal Retirement. Motion **CARRIED** by a roll call vote of 5-0.

B. Payroll - Addition of Normal Service Retirement for Jack Wixon to the payroll in the amount of \$2,542.26.

C. **NORMAL SERVICE RETIREMENT**

Jack Wixon - Last day worked 08/15/07 – Pension effective 09/01/07

Mr. Stillwell stated that for the record the signatures on the application were made in conjunction with communication with council. He said that he wanted to make it clear to the board that Mr. Wixon does not intend to withdraw his application. He asked that the board act on it in a timely fashion and if the board chooses not to act on the application for disability that he will file a lawsuit against the board. Because he felt that Mr. Wixon should be allowed to have a regular retirement while waiting for his disability retirement and, it is not the intent of the statute that a retiree be forced to relinquish his rights to disability benefits under these circumstances.

Mr. Garrison asked Mr. Stillwell if when he referred to a regular retirement he was referring to a normal retirement.

Mr. Stillwell stated that yes he was.

MOTION by Mr. Gurr, seconded by Mr. Garrison to accept the addition to the consent agenda Item number B. payroll in the amount of \$2,542.26 for Normal Service Retirement for Mr. Wixon. Motion **CARRIED** by a roll call vote of 5-0.

**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 – Attachments

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

MOTION by Mr. Gurr, seconded by Mr. Garrison that Mr. Ransom met what would have been his 20 years in January 2007 and to waive his physical for this year and he is no longer required to take a physical. Motion **CARRIED** Unanimously.

12. ELECTION

Police – update

Ms. Martinez stated that in the Boards’ packet is a copy of a sample ballot. She further stated that Mr. Jim Parks who is one of the Candidates for the Tucson Police PSPRS Board filed an application for Permanent Accidental Disability Retirement yesterday. The Ballots are printed and stuffed and will be sent out on September 12, 2007. Mr. Parks did not withdraw his name from the ballot and has not been approved for disability retirement.

She spoke with the police department and asked if Mr. Parks withdraws his candidacy, can they send a notice to the police system members to inform them that he has withdrawn his candidacy and the police department responded that yes they could send out notification.

Mr. Gurr asked Mr. McEvoy if Mr. Parks resigns, could the board accept the candidate with the next highest vote.

Mr. McEvoy stated that yes they could.

Mr. Gurr stated that he would speak to Mr. Parks.

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 item was put on the agenda for information, nothing was discussed.

16. ADJOURNMENT: 10:23 A.M.

MOTION by Mr. Garrison, seconded by Mr. Gurr to adjourn the Police 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.

