

PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
MINUTES OF POLICE OFFICER'S MEETING
FEBRUARY 10, 2009

The regular meeting of the Tucson **Police** Public Safety Personnel Retirement System Board was held on Tuesday, February 10, 2009, on the 5th Floor, Finance Conference Room, City of Tucson, City Hall, 255 W. Alameda, Tucson, Arizona. Chair Robert Walkup called the **Police** Board meeting to order at 9:12 a.m.

1. ROLL CALL

Police Board Members:

Present:	Robert Walkup	Chair
	Debra Hillary	Member
	Mike Gurr	Member
	J. D. Kragnes	Member
Absent/Excused:	Marion Pickens	Member
Staff Present:	Elizabeth Martinez – Police and Fire Board Secretary	
	Dee Dee Roberts-Meech – Police and Fire Board Staff	
	David McEvoy – Police and Fire Board Attorney	
Also Present:	Brian Delfs – Fire Board Member	
	Roger Tamietti – Fire Board Member	
	Patrick Arendt – Police System Member	
	David Stone – Police System Member	

2. POLICE CONSENT AGENDA: ITEMS A – G

- A. MINUTES FOR APPROVAL – 1/13/09
- B. PENSION PAYROLL – Addition of Normal Service Retirement for Michael Bouchard out of DROP in the amount of \$4,403.82. Addition of Normal Service Retirement for Thomas Cormier out of DROP in the amount of \$4,060.14. Addition of Normal Service Retirement for John Figueroa out of DROP in the amount of \$3,035.49. Addition of Normal Service Retirement for Claude Ralls out of DROP in the amount of \$4,743.36. Addition of Normal Service Retirement for Franklin Rau out of DROP in the amount of \$4,538.73. Addition of Normal Service Retirement for William Washington out of DROP in the amount of \$4,031.16.

- C. NORMAL SERVICE RETIREMENT
Michael Bouchard – Last day worked 01/29/09 pension effective 02/01/09
Thomas Cormier – Last day worked 01/30/09 pension effective 02/01/09
John Figueroa – Last day worked 01/06/09 pension effective 02/01/09
Claude Ralls – Last day worked 01/29/09 pension effective 02/01/09
Franklin Rau – Last day worked 01/21/09 pension effective 02/01/09
William Washington – Last day worked 01/30/09 pension effective 02/01/09

- D. DEFERRED RETIREMENT OPTION PLAN
Ronald G. Reyes – Election to participate in the DROP 01/31/09
James Kirk – Election to participate in the DROP 01/31/09

- E. REDEMPTION OF PRIOR SERVICE
Garry Arnold – 1.834 years of service with Drexel Heights Fire in the amount of \$34,662.00.
Dennise Wilson – 4.750 years of service with Pima County Corrections in the amount of \$67,750.93.

- F. EXPENDITURE STATEMENT IN THE AMOUNT OF \$ 300.00 FOR PHYSICAL for Darryl Alexander by Dr. Dennis Thrasher at Sunnyside Medcenter.

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

MOTION by Mr. Kragnes, seconded by Mr. Gurr that Police Board Items A – G are adopted and the appropriate action taken. Motion **CARRIED** by a roll call vote of 4-0. (Ms. Pickens absent/excused)

3. FIRE CONSENT AGENDA: ITEMS A – E

- A. MINUTES FOR APPROVAL – 1/13/09
- B. PENSION PAYROLL – Addition of Normal Service Retirement for Ray Allen out of DROP in the amount of \$6,345.31. Addition of Normal Service Retirement for Richard Davis out of DROP in the amount of \$2,955.66. Addition of Normal Service Retirement for Larry Lakey out of DROP in the amount of \$2,302.63.

- C. NORMAL SERVICE RETIREMENT
Ray Allen - Last day worked 01/23/09 pension effective 02/01/09

Richard Davis – Last day worked 01/28/09 pension effective 02/01/09
Larry R. Lakey – Last day worked 01/28/09 pension effective 02/01/09

D. DEFERRED RETIREMENT OPTION PLAN

Allen Hensley – Election to participate in the DROP 01/31/09

John Nagore – Election to participate in the DROP 01/31/09

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

The Police Board requires no action because this is a Fire Board item.

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 – Attachments

David Stone

There was no executive session.

5. **APPLICATION FOR DISABILITY RETIREMENT**

Direction regarding Executive Session

David Stone

MOTION by Mr. Kragnes, seconded by Mr. Gurr that based on the medical evidence and letter from Dr. Thrasher to deny the application for Permanent Accidental Disability Retirement. Motion **CARRIED** unanimously. (Ms. Pickens absent/excused)

6. **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

Patrick Arendt

There was no executive session.

7. APPLICATION FOR DISABILITY RETIREMENT

Direction regarding Executive Session

Police

Patrick Arendt

After some discussion, Mr. McEvoy stated that the accidental disability is not relevant at this point so the Board should focus on the ordinary disability. The definition of that in the statute is, "...a physical condition which the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition which the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity." It is the first part of that definition that would apply in this case if anything applies.

Mr. Kragnes stated that his concern was with the definition under A.R.S. 38-844 item D.

Mr. McEvoy asked the Board to look at A.R.S. 38-844 item D, and read the following: "Notwithstanding any other provision of this section, no member shall qualify for an accidental, catastrophic or ordinary disability pension if the local board determines that the member's disability results from the following:

3. A physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system."

Therefore, the issue is when this occurred and was it prior to his hire date. Mr. Gurr stated that was correct. He felt that no one could determine when it occurred. Mr. McEvoy asked if Mr. Gurr felt that there was a way that a Doctor could make that determination. Mr. Gurr said he did not think so. Mr. McEvoy asked if the applicant could show records that predate the hire date and Mr. Gurr stated that he did not think so.

Mr. Walkup said that he would think that a pre-existing condition would show up on the pre-employment physical.

Ms. Hillary stated that there was a need for Mr. Arendt to have surgery prior to his hire date as a police officer and the physician stated that there was significant

scaring, she did feel that he was eligible for an Ordinary disability but not an Accidental.

Mr. McEvoy stated the verbiage the board should look at is “results from.” The board would have to make a finding that, the disability results from the prior injury, not the fact that there was a prior injury and not the fact that there was extraordinary scar tissue resulting from that injury but that the current condition results from that injury. If the Board finds that to be true, the Board is entitled to deny the ordinary; however, if you do not find that to be true than the Board cannot deny the ordinary.

Mr. Arendt stated that he had surgery in 1994 and did not see a physician again until 2000.

Mr. Kragnes stated that there is no evidence that Mr. Arendt had arthritis prior to his hire date.

MOTION by Mr. Gurr, seconded by Mr. Kragnes after review of the medical evidence to request that Patrick Arendt go to the Board Physician for a physical examination to determine if he is eligible for an Ordinary Disability Retirement. Motion **CARRIED** unanimously. (Ms. Pickens absent/excused)

8. CONSIDERATION OF DISABLED CHILDS BENEFITS 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

There was no executive session.

**9. CONSIDERATION OF DISABLED CHILDS BENEFITS
Direction regarding Executive Session**

Police

Mr. McEvoy stated the facts would meet the last clause of the statute of the definition of “eligible child” in A.R.S. section 38-942(19). Mr. Sander's daughter would meet the last clause of that statute ("or under a disability that began before the child attained the age of twenty-three and who remains a dependent of the surviving spouse or guardian") if the factual statements

contained in the materials are true. Until he spoke with Mr. Gurr and Mr. Gurr stated that the member had to be deceased before the Board could take action.

Ms. Martinez said the daughter needs to be added as a dependent child in order to receive benefits upon the member's death.

After some discussion, no determination was made.

**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 - Attachment

Richard Douglas – Hire date: 05/28/95 Retired: 01/30/02 Last Phy: 02/20/08

Carl Miller – Hire date: 06/27/93 Retired: 11/26/99 Last Phy: 03/04/02

Kristina Thacker – Hire date: 11/14/93 Retired: 02/26/99 Last Phy: 03/08/07

Dennis Widener – Hire date: 04/30/98 Retired: 07/30/07 Last Phy: 02/28/08

There was no executive session.

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

Police

Richard Douglas

Carl Miller

Kristina Thacker

Dennis Widener

MOTION by Mr. Kragnes, seconded by Mr. Gurr in keeping with board policy to take a physical every other year that Carl Miller and Kristina Thacker are requested to take a physical with the Board Physician, Dr. Dennis Thrasher. Both Richard Douglas and Dennis Widener are in compliance and do not have to take a physical this year. However, the board will review their cases again next year for consideration. Motion **CARRIED** unanimously. (Ms. Pickens absent/excused)

12. LEGISLATION

Police & Fire

Ms. Martinez provided copies of the Arizona State Senate 49th Legislature, 1st Regular Session Timeline. In addition, if the Board members would like to see specific legislation please call the board office and they will make copies of it for them.

13. FUND INFORMATION

Police & Fire

It was announced that the PSPRS local board training is scheduled for Wednesday, February 11, 2009 from 9:00 a.m. to 4:00 p.m. in the City Council Chambers. Everyone is invited to attend.

14. ADJOURNMENT (9:32 A.M.)

MOTION by Mr. Gurr, seconded by Mr. Kragnes to adjourn. Motion **CARRIED** unanimously. (Ms. Pickens absent/excused)

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, **March 10, 2009**, 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.