

**MINUTES OF PUBLIC MEETING
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD
FOR THE JUDICIARY**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Judiciary was convened Tuesday, February 4, 2020 at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present in Conference Room 109: Kevin Kluge, Chair; Mark Smalley; Jason Hathcock; Jennifer Fish

Board Member Present by Conference Call: Scott Mabery

Also Present in Conference Room 109: Vanessa Haney, Board Secretary; Cynthia Kelley, Board Attorney (conference call); Alicia Bocardo, Recorder; Ottmar & Associates, Court Reporter; Matthew Baack (conference call)

Call to Order:

Approval of the Minutes:

January 7, 2020 – Public Meeting Minutes

MOTION: A motion to approve the public minutes of the January 7, 2020 meeting was made by Scott Mabery. The motion was seconded and passed; minutes stand approved. **CORP 2020-06**

Consideration of Disability Application:

#19-02, Matthew Baack: 2nd IME Review Decision

The Board received Application #19-02 for Ordinary Disability benefits from Matthew Baack on May 20, 2019.

The applicant was a Pima County Adult Probation Officer with 6.626 years of credited service with CORP. He terminated employment on May 17, 2019. The applicant identified the disabling conditions as: “shattered L1 vertebrae-September 1, 2018.”

The applicant was notified via certified letter that the Board would consider the application at this meeting and of the applicant’s right to attend. The applicant initialed the Waiver of Confidentiality provision, to allow discussion of the medical condition in open public meeting.

The Board denied the applicant’s application at its regular meeting on August 6, 2019 based on the original Independent Medical Evaluation, IME, report by Dr. Paul Cederberg.

The applicant requested a rehearing, at which, the Board referred Mr. Baack to a second IME with Dr. Mark Frankel. The IME report was provided for the Board.

The criteria for Ordinary Disability benefits per A.R.S. §38-886.01: “Ordinary disability” means a physical condition that the local board determines will prevent an employee from totally and permanently performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee from totally and permanently engaging in any substantial gainful activity.

Dr. Mark Frankel performed an Independent Medical Examination of the applicant on December 20, 2019. A copy of Dr. Frankel’s IME report was provided to the Board.

A copy of A.R.S. §38-886.01 governing Local Board consideration of applications for Ordinary Disability was included for reference purposes:

The Local Board will need to determine eligibility based on the Independent Medical Evaluation. Any motion to approve or disapprove the application should include a reference to the Independent Medical Evaluation upon which the determination is based. The Board can consider any medical evidence that the applicant may want to provide; however, the statutes are clear that a determination of disability shall be based on the IME. Material conflicts in medical evidence must be resolved by findings of the Board. Disability determinations by the State Comp Fund or other workers’ compensation bodies are not binding on the Local Board.

The Local Board Secretary acknowledged applicant #19-02, Matthew Baack, was present via conference call.

The Chair asked the Board Attorney if there was any comment to add in reviewing the details of Mr. Baack’s application. The Board Attorney responded that she had no comment to add at the time.

The Chair inquired if there was a statement the applicant wished to make. Mr. Baack replied by thanking the Board for their time. The Chair advised the Board that executive session could take place if legal advice is needed. The Chair then opened the floor for open discussion and questions for the applicant.

Board member Jason Hathcock noted for the record why the second IME would be considered for a final benefit decision. He stated that it was agreed by the Board that the first IME conducted was unclear and that the physician in question did not make himself available to address the concerns. Board member Jason Hathcock added that the applicant requested his rehearing within the allowed timeframe. Additionally, Board member Jason Hathcock stated that the second IME appears to be thorough in the responses.

Board member Jason Hathcock noted the response from the second IME doctor, Dr. Frankel, that the applicant was found to have a physical condition that totally and permanently prevents him from performing a reasonable range of duties within the employee’s department. Board member Jason Hathcock also added that it was the doctor’s opinion that improvement of the condition or injury is possible but cannot be predicted following surgery.

Board member Jason Hathcock advised the Board of his inclination to approve Mr. Baack’s application with a review of three years referencing the Guidelines for Periodic Reevaluation of Disability Benefits based off the wording “possible” in Dr. Frankel’s noted response in the

questionnaire. Board member Jason Hathcock challenged an annual review because the second IME indicated that improvement is possible but does not indicate it is expected.

The Chair agreed that the second IME conducted was more concise and thorough in the responses. The Chair asked Mr. Baack if he agreed with the statement. The applicant agreed that the second doctor was more thorough. He added that an hour was spent during the visit and that a more detailed examination took place.

Board member Scott Mabery inquired about the reasoning for a 3-year review instead of an annual review for this case. The Chair replied that the determination is based on the wording of the doctor in the responses with the corresponding guideline measures adopted by the Board.

Board member Jason Hathcock added that the Board has the authority to review every case annually but that the guidelines were adopted to alleviate the case load basing the review date on the doctor's responses by the following:

If improvement is expected, the first review will generally be one year after the date the Board approves the application for disability benefits, and at one-year intervals thereafter;

If improvement is possible, but can't be predicted, the first review will generally be three years after the date the Board approves the application for disability benefits, and at three-year intervals thereafter;

If improvement is not expected, the first review will generally be six years after the date the Board approves the application for disability benefits unless the member's condition is considered terminal or the member will reach normal retirement age within six years.

Board member Scott Mabery inquired if the Board can set the review date annually despite the guideline designation. The Chair responded that the Board can set the stipulation to review medical records annually instead of the three-year period.

Board member Jennifer Fish asked Mr. Baack if he anticipates or scheduled surgery. The applicant responded that the surgery was not scheduled at this time and that it was an uncertain option due to the implications involved. He added that treatment did not consist of physical therapy. He stated treatment was determined to be more of pain management than physical recovery.

The Chair stated that an annual review should be considered in this case to assess any medical records available in the future so that the Board can be made aware of any treatment or surgery plans that may improve the condition.

Board member Mark Smalley informed the Board of his consideration to have the case reviewed in three years because that timeframe would allow the Board to view any significant changes such as treatment/surgery whereas one year would likely not provide ample amount of time to show improvement, if that were to occur.

The Chair replied that the one-year review should still be considered in the determination because it would be at no cost to the Board; the only expense involved with the review would be an IME

referral if needed. He added that an annual review would allow the Board to maintain informed in the applicant's treatment.

Board member Jennifer Fish stated that she was in favor of a three-year review because the doctor was specific that improvement's predictability was dependent on surgery and that it was the applicant's determination that surgery will likely not happen thus keeping his condition the same.

MOTION: A motion to approve the application for Ordinary Disability Retirement benefits from applicant #19-02, Matthew Baack, based on the findings of the Independent Medical Evaluation conducted by Dr. Mark Frankel for the Local Board, as set forth in his report dated December 20, 2019 and the Form C5-LB-O dated December 31, 2019; approve an Ordinary Disability Benefit for Matthew Baack in about the amount of \$557.88, was made by Jason Hathcock. The motion was seconded and passed unanimously. CORP 2020-07

It was decided among the Board that the case will be initially scheduled for a two-year review and that the remaining sequence of review dates will be dependent on the medical record update in 2022.

MOTION: A motion to review this matter again in two years pursuant to A.R.S. §38-886.01. D., was made by Scott Mabery. The motion was seconded and passed unanimously. CORP 2020-08

The Board Attorney and Mr. Baack promptly left the conference call at 10:17 a.m.

CORP AOC Actuarial Evaluation

The Chair informed the Board that the Actuarial Evaluation Report's purpose was informational only. The Local Board Secretary advised the Board that it was Public Safety's directive to place the report on the Board's agenda for review. The Chair directed the Local Board Secretary to distribute the reports to the directors of the AOC Juvenile Justice Services Division and the Adult Probation Services Division to ensure that the reports are forwarded to the county directors and chiefs.

Jason Hathcock Report on January PSPRS Annual Conference

Board member Jason Hathcock requested to have his report tabled for the next Board meeting held on March 3, 2020. The Chair acknowledged the request and set his report as a future agenda item.

Approval of Normal Retirement Benefits:

There were ten applications for Normal Retirement benefits submitted for the Board's approval pursuant to A.R.S. § 38-893 (D).

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts, effective February 1, 2020 was made by Jennifer Fish. The motion was seconded and passed unanimously. CORP 2020-09

Steven Borozan	\$1832.89
James Brt	\$2,033.57

Franchesca Gruber	\$2,827.52; Reverse DROP estimate \$105,288.92
Cherre Hooper	\$2,413.94
Henry Meraz	\$4,112.01
Gloriacinda Montano	\$3,098.01; Reverse DROP estimate \$ 50,226.28
Martin Ohlmaier	\$3,002.70
Christopher Prinz	\$2,204.11
Catherine Stevens	\$3,644.70
Donald Warrington	\$4,354.99; Reverse DROP estimate \$162,162.11

Approval of Death Benefits:

An application for death benefits was submitted for the Board’s approval pursuant to A.R.S. §38-887.

MOTION: A motion to approve the payment of a Death Benefit to the following beneficiary in about the following amount was made by Mark Smalley. The motion was seconded and passed unanimously. **CORP 2020-10**

Member: Gloria Martinez Egurrola (Deceased 9/07/19)
Benefit Payable to Designated Beneficiary:
Stephanie Egurolla: \$136,885.77

Acknowledgement of CORP Physical Exam Final Letter

The Chair noted for the record that the physical examination report for Richmond Barkemeyer was not received within 60 days of receipt of his membership application and that a final letter requesting the examination was sent via certified mail on November 25, 2019.

Decision on Notice of Retiree Return to Work: Charles Gatwood

The Board received a Notice of Retiree Return to Work from Graham County for Charles Gatwood. The form indicates that Mr. Gatwood retired from the Graham County Adult Probation Department under CORP effective July 31, 2018 and returned to work for the Graham County Adult Probation Department on January 6, 2020, as an Adult Probation Officer.

MOTION: A motion that the Board received a Notice of Return to Work for Charles Gatwood and finds (1) Mr. Gatwood is eligible to continue to receive a CORP pension. (2) Mr. Gatwood’s employer (Graham County) is responsible for paying the CORP alternate contribution rate on his behalf, was made by Scott Mabery. Motion was seconded and passed unanimously. **CORP 2020-11**

Approval of Membership:

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

Barkemeyer, Richmond	Navajo	10/20/2019
Calhoun, Clarence	Pinal	12/22/2019
Camacho, Angel	Maricopa	01/05/2020
Carillo Vasquez, Ian	Maricopa	01/05/2020

Garcia, Irene	Maricopa	01/05/2020
Golden, Danielle	Maricopa	01/05/2020
Lagarda, Daisy	Pima	12/15/2019
Oulton, Austin	Yavapai	12/29/2019
Owings, Jacob	Maricopa	01/05/2020
Padilla, Jazmin	Maricopa	01/05/2020
Sosa, Alexis	Pima	01/02/2019
Valenzuela, Elsa	Pima	12/29/2019

MOTION: A motion to approve the 12 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. §38-893.D and to note for the record that the physical examinations for Stevan Radmanovich, Delfina Romero and Stella Scott identified a physical or mental condition or injury that existed or occurred before their date of membership in the plan, was made by Mark Smalley. The motion was seconded and passed unanimously. **CORP 2020-12**

See Attachment A to these minutes for details of the membership approved at this meeting.

Future Agenda Items:

The Board Secretary advised the Board that Jason Hathcock’s report on January PSPRS Annual Conference will be placed on the March 3, 2020 agenda.

The Chair informed the Board that he may not be in attendance to chair the March 3, 2020 meeting. He stated that his absence will prompt Jason Hathcock to chair if needed.

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 10:35 a.m.

Transcribed February 5, 2020