

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

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Superior Court was convened Wednesday, September 5, 2012, at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Members Present:

Kevin Kluge, Chair; Phil Hanley; Mark Smalley; Jason Hathcock; Rob Lubitz

Also Present:

Annette Corallo, Board Secretary; Leticia Chavez, Recorder; Michael Anthony, Board Attorney; Hannah Auckland, Board Attorney; Court Reporter, Ottmar & Associates

Call to Order

Board Chair Kevin Kluge announced that agenda items would be taken out of order while the Board waited for a court reporter to arrive to prepare a transcript of proceedings for the disability applications to be discussed at Item III on the agenda. He directed that the Board address Item II and then proceed to Items IV through VIII.

Approval of the Minutes:

- a. August 8, 2012, Public Meeting Minutes

The Chair called for any corrections or additions to the minutes.

MOTION: A motion to approve the August 8, 2012, Public Meeting Minutes was made by M. Smalley. Motion was seconded and passed unanimously; minutes stand approved. **CORP 2012-41**

Approval of Normal Retirement:

The Local Board may consider and vote on the approval of Normal Retirement benefits for the following applications or defer decision to a later date:

- a. Sally Maurizi
- b. Judith L. Walker

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in approximately the following amounts was made by R. Lubitz. Motion was seconded and passed unanimously. **CORP 2012-42**

Sally Maurizi: \$4,017.27
Judith L. Walker: \$1,204.95

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:

- a. Cronin, Nicholle Pima 06/18/2012
- b. Ramsdell, Natalie Pima 05/14/2012
- c. Rickard, Jennifer Pima 05/07/2012
- d. Roberson, Kimberly Maricopa 06/25/2012

MOTION: A motion to approve the four named employees requesting membership into CORP was made by J. Hathcock. Motion was seconded and passed unanimously. CORP 2012-43

CORP Physical Exam Final Letters:

- a. Nicholle Cronin
- b. Natalie Ramsdell
- c. Jennifer Rickard
- d. Kimberly Roberson

The Board noted for the record that a final letter requesting a physical examination was sent to each of these four members on August 24, 2012, via certified mail, to advise them that the Board did not receive a CORP physical exam report after 60 days of receipt of their membership forms.

General Discussion:

- a. Status Update: Retiree Return to Work – Opt-Out Waiver

At the August 8, 2012 meeting, the Board Chair shared that the Board’s attorney had recently consulted with the Fund Manager and ASRS for a determination as to whether a probation employee who executed an Opt-Out waiver and remained in ASRS at the joinder may return later to a designated CORP position and remain in ASRS. It was determined that the earlier Opt-Out meant the employee could not be a member of CORP upon return and would remain in ASRS. A related question was the Board’s decision at the May 9, 2012 meeting to ask for direction from PSPRS as to whether members who opted-out of CORP and stayed in ASRS at the time of the joinder agreement, and later become employed in a CORP designated position after retirement under ASRS, would be allowed to participate in CORP. No response on that question has been received from the Fund Manager to date. The Chair stated he would follow up with PSPRS regarding this question.

- b. Status Update: Retiree Return to Work – Salary Correction

The Board considered a Notice of Return to Work from Pima County for Manuel L. Florez at the August 8, 2012 meeting. The Board found that Mr. Florez may continue to receive his pension benefit and that Pima County must pay an ACR for him, but it was noted that the salary shown

for Mr. Florez needed clarification. Staff contacted Pima County to clarify the salary amount shown on the form and learned it was expressing an hourly rather than annual salary, and the hourly salary was formatted incorrectly. Staff asked Pima County to submit the form again with a corrected salary amount. The corrected form was received from Pima County and reflects Mr. Florez's salary as \$29.3173 per hour or \$60,979.98 per year. The Board requested the corrected form be sent to the Fund Manager with the completed September 2012 minutes.

c. Form C16 Addition to Retirement Application

PSPRS updated the CORP retirement application form in August 2012 to include a Form C16 that requires retirees to acknowledge the Return to Work provisions. The provisions that the form asks retirees to acknowledge are consistent with the statements made on the Board's Notice of Return to Work form. The Board Secretary reported that, beginning with the September 2012 meeting, staff will forward a copy of any Return to Work Notice considered at the meeting to the Fund Manager when the meeting minutes are sent.

Approval of Survivor Benefits

The Local Board may consider and vote on the approval of Survivor Retirement benefits for the following application or defer decision to a later date.

- a. Nelson H. Nieschulz (Deceased) – Benefits Payable to Teresa A. Nieschulz

MOTION: A motion to approve the payment of Survivor benefits to the following applicant in approximately the following amount was made by P. Hanley. Motion was seconded and passed unanimously. CORP 2012-44

Teresa A. Nieschulz: \$3,429.85

The Board Secretary stated that Mrs. Nieschulz will receive a benefit payment retroactive to June 2012. In response to a Board member's question about how new legislation affects retroactive payment of Survivor benefits, the Board Secretary responded that she could research its applicability to Survivor benefits. The Board requested the Board Secretary research with PSPRS the retroactive payment available for an applicant for Survivor benefits.

The Board adjourned for a 15-minute break at 10:15 a.m. to allow the court reporter time to set up for transcription.

The Chair called the meeting back to order at 10:32 a.m.

Consideration of Disability Applications (Taken out of order)

The Local Board may vote to go into Executive Session to discuss medical documentation and receive legal advice for the following disability applications pursuant to A.R.S. 38-431.03 (A)(2 & 3):

a. #12-02 – IME Decision

The Board received Application #12-02 for Ordinary Disability on August 22, 2012. The Board Secretary reported that this applicant is an Adult Probation Officer in Pima County, with almost 14 years of service. The application is for Ordinary Disability benefits. The applicant was not injured in the course of physical contact or confrontation with a probationer or detainee. The application states the applicant suffers from multiple cervical impairments and chronic pain. It also states the applicant has undergone surgery twice in the last 14 months to address her cervical issues. The medical documentation submitted by the applicant dates back to 2010, and a letter submitted with the application states the department has made multiple accommodations for the applicant; however, the applicant has had to give up her duty weapon and has not been able to attend defensive tactics for two years. In addition, the applicant's use of narcotic pain medication to treat chronic pain is prohibited by departmental policy. The Board Secretary noted the applicant's physical exam dated June 4, 2007, identified a pre-existing condition of "Cervical disc (bulge on MRI reportedly)" and that the application states that most diagnoses are genetic, which may be relevant to the Board's consideration of the application.

The Chair called for a motion to go into executive session to receive legal advice pursuant to A.R.S. 38-431.03 (A) (2 & 3).

MOTION: A motion to go into executive session to receive legal advice was made by M. Smalley. Motion was seconded and passed unanimously. **CORP 2012-45**

MOTION: A motion to return to public session was made by J. Hathcock. Motion was seconded and passed unanimously. **CORP 2012-46**

MOTION: A motion to refer Applicant #12-02 for an IME was made by P. Hanley. **CORP 2012-47**

Members called for discussion on the motion. Discussion followed as to whether the Board Secretary should request any medical documentation prior to the 2010 documentation already submitted before an IME is scheduled, and whether that documentation should be obtained before the Board Secretary schedules an IME. It was also noted and discussed that if the applicant fails to provide the name(s) of the medical provider(s) prior to the 2007 physical exam, the Board can discuss this application again at the next scheduled meeting. The Board's attorneys suggested it would be best to ensure a complete record by having the Board Secretary obtain medical history directly from providers, rather than asking the applicant to provide records.

After discussion, P. Hanley withdrew his motion to refer Applicant #12-02 for an IME. There was no objection to the withdrawal of the motion.

MOTION: A motion to obtain records from the medical provider(s) for the MRI referenced in the 2007 physical exam report for Applicant #12-02 was made by P. Hanley. Motion was seconded and passed unanimously. **CORP 2012-48**

MOTION: A motion to schedule an IME for Applicant #12-02 as soon as the prior medical documentation is received was made by J. Hathcock. Motion was seconded and passed unanimously. **CORP 2012-49**

b. #12-03 – IME Decision

The Board received application #12-03 for Ordinary Disability on August 22, 2012. The applicant is a Juvenile Probation Officer in Coconino County whose CORP physical exam dated September 28, 2007, does not indicate any pre-existing conditions. A letter from Coconino Juvenile Court Director Bryon Matsuda dated July 11, 2012, indicates the applicant has tendered resignation effective October 12, 2012, due to inability to continue to perform work duties. The applicant submitted a letter from Sandra L. Smith, MD, dated May 10, 2011, which states the applicant was diagnosed with Parkinson’s disease in April of 2009 and that, “At this point, she should be considered permanently disabled.” The applicant also submitted several reports of medical findings and treatment. After review of the medical documentation, the Board agreed to refer Applicant #12-03 for an IME.

MOTION: A motion to refer Applicant #12-03 for an IME was made by J. Hathcock. Motion was seconded and passed unanimously. **CORP 2012-50**

c. #09-01 – IME Decision (Annual Reevaluation)

The Board approved Application #09-01 for Ordinary Disability benefits on September 2, 2009. This matter is brought before the Board for a yearly medical evaluation determination. The applicant was advised via certified mail that the Board would hear her case. The applicant was also asked to provide medical treatment records since September 1, 2011, to assist the Board in determining whether an IME of the applicant’s condition would be necessary. Medical records received from the applicant on August 20, 2012, indicate, “Chronic symptomatic predicament of fibromyalgia phalanx Cymbalta, Lyrica, gabapentin with ongoing opiates per pain management specialist.” Various reports also note the applicant was evaluated and treated for seizure disorder, soft disc herniation, degenerative disc disease, and symptoms of irritable bowel syndrome during the past year.

After review of the current medical evidence, the Board felt that the evidence provided by Applicant #09-01 continues to justify an Ordinary Disability benefit and that the Board should review the case in one year.

MOTION: A motion to continue the Ordinary Disability benefit for Applicant #09-01 and review the case in one year was made by R. Lubitz. Motion was seconded and passed unanimously. **CORP 2012-51**

d. #11-02 – IME Decision (Annual Reevaluation)

The Board approved Application #11-02 for Ordinary Disability benefits on September 7, 2011. This matter is brought to the Board for a first yearly medical reevaluation. The applicant was advised via certified mail that the Board would hear her case. The applicant was also asked to

provide medical treatment records since September 1, 2011, to assist the Board in determining whether an IME of the applicant's condition would be necessary. Medical records received from the applicant on August 24, 2012, indicate the applicant continues to be seen for multiple cognitive complaints and has mild Alzheimer's disease.

After review of the current medical evidence, the Board felt that the evidence provided by Applicant #11-02 continues to justify an Ordinary Disability benefit and that the Board should review the case in one year.

MOTION: A motion to continue the Ordinary Disability benefit for Applicant #11-02 and review the case in one year was made by P. Hanley. Motion was seconded and passed unanimously. CORP 2012-52

Call to Public

No members of the public addressed the Board.

The meeting was adjourned at 11:00 a.m.

Transcribed September 5, 2012