

**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 Tuesday, December 2, 2014, 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; Rob Lubitz; Mark Smalley; Jason Hathcock

Board Members Absent:

Phil Hanley

Also Present:

Annette Corallo, Board Secretary; Leticia Chavez, Recorder; Hannah Auckland, Board Attorney; Ottmar & Associates, Court Reporter; Dolora G. Gibson, Claimant; Michael Tucker, Attorney for Dolora G. Gibson (Claimant)

Call to Order:

Approval of the Minutes:

November 4, 2014, Public Meeting Minutes

MOTION: A motion to approve the November 4, 2014 Public Meeting Minutes was made by R. Lubitz. Motion was seconded and passed unanimously; minutes stand approved. **CORP 2014-61**

Death Benefit:

Jared Smout, Deputy Administrator for the Public Safety Personnel Retirement System, submitted a request for rehearing dated October 31, 2014, in the matter of “Mark P. Barthel, Deceased – Application for Death Benefit.” The Board had approved payment of a death benefit to Mr. Barthel’s designated beneficiary, Dolora G. Gibson, at its meeting on October 7, 2014.

The claimant was advised of the Administrator’s request for rehearing in a letter dated November 4, 2014, and provided with a copy of the Rules of Local Board Procedure that will be used to conduct the rehearing. The letter also advised her of her right to file a response and/or to be represented by counsel.

Statute referenced in request for rehearing:

14-2804. Termination of marriage; effect; revocation of probate and nonprobate transfers; federal law; definitions

A. Except as provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between a divorced couple before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

1. Revokes any revocable:

(a) Disposition or appointment of property made by a divorced person to that person's former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse.

The Local Board Office received a response from the claimant on November 21, 2014, via her Attorney, Michael Tucker, opposing the rehearing. The Chair invited the claimant and her Attorney, Michael Tucker to address the Board. Mr. Tucker reiterated Ms. Gibson's opposition to the rehearing.

The Local Board Attorney stated that, by statute, in the event that a rehearing is requested by either party, the Local Board must set and conduct a rehearing. She also stated that if the claimant has any exhibits or information that she would like considered by the Board, the evidence should be submitted prior to the rehearing date. Mr. Tucker stated that he and Ms. Gibson received copies of the Rules of Local Board Procedure but do not have a copy of the plan document that governs the process used by the Administrator to pay distributions, and asked where the plan document can be obtained. The Local Board Attorney stated that he should request a copy from the Administrator.

The Board had no questions for Mr. Tucker or Ms. Gibson.

MOTION: A motion to set a rehearing in this matter on January 6, 2015, with at least 15 days' written Notice of the Rehearing sent by certified mail to all parties was made by M. Smalley. Motion was seconded and passed unanimously. CORP 2014-62

Disability Retirement:

The Board approved Application #09-01 for Ordinary Disability benefits on September 2, 2009. The applicant was advised via certified mail that the Board would conduct an annual review at this meeting.

This applicant did not sign the confidentiality waiver to allow discussion of medical information in open session, so any discussion of the applicant's medical information should occur in executive session.

The applicant was asked to provide all medical treatment records since October 1, 2013, to assist the Board in determining whether an independent medical reevaluation of the applicant's condition is necessary.

History of Board Action:

The Board has voted for the past four years to suspend the requirement that Applicant #09-01 undergo a medical reevaluation for one year (October 28, 2010; September 7, 2011; September 6, 2012; February 5, 2014).

Relevant Statute:

A.R.S. § 38-886.01 governs Ordinary Disability retirement for CORP members. The statute text follows. Relevant provision to this review is:

- A.R.S. § 38-886.01.D.:

D. The local board may require a disabled retired member to undergo periodic reevaluation of the continuation of ordinary disability. If the disabled retired member refuses to submit to reevaluation, the local board may suspend payment of the pension. If the refusal continues for one year, the local board may revoke the disabled retired member's rights to the pension. An ordinary disability pension is terminated if the local board finds the retired member no longer meets the requirements for ordinary disability retirement. This subsection does not apply after a disabled retired member reaches the member's normal retirement date. The amount of a disability pension shall not be recomputed at a disabled retired member's normal retirement date.

The Board established on February 2, 2014, that the disabled member's condition should be reevaluated in one year. The applicant's earliest normal retirement date would have been August 22, 2018, when she would attain 20 years of service.

After review of the medical documentation submitted by the applicant, the Board agreed the applicant's condition has not improved and the applicant therefore continues to meet the Ordinary Disability requirement.

MOTION: A motion to continue the Ordinary Disability benefit for Applicant #09-01 and review the case in one year was made by J. Hathcock. Motion was seconded and passed unanimously. **CORP 2014-63**

Review of Pre-Existing Condition Documentation:

The Board approved membership for Richard McClellan at its October 7, 2014 meeting. Mr. McClellan retook his CORP physical exam at the Board's request, after Concentra was unable to provide a copy of his original exam report. Mr. McClellan submitted documentation regarding a pre-existing condition noted in his CORP physical exam. He requests reconsideration of the Board's approval of membership with the inclusion of one of the identified pre-existing conditions.

The CORP Model Rules do not address this situation but the Public Safety Model Rules outline a procedure:

Rule D.5:

- c. The Secretary shall provide the Local Board with any additional documentation or comments submitted by an Employee regarding a physician or clinic's conclusion that an Employee has a pre-existing condition.

d. The Local Board shall review the physician or clinic's report and any additional documentation submitted by the Employee at a Meeting. After review of the relevant documents, the Local Board will take any action the Local Board deems necessary and appropriate.

The Board Attorney advised that discussion of this request should occur in a "modified" executive session, rather than a public portion of the meeting, since there is the potential to discuss confidential medical information without a confidentiality waiver from the member.

The Board Attorney also advised that the Board can agree to accept the information and include it with the pre-existing condition report or take some other action if it feels the additional information is sufficient to refute the pre-existing condition determination. She further advised that whatever action is taken must be done on the record in open session.

The Board agreed to accept the information and include it with Mr. McClellans's pre-existing condition report and further review the documentation should an application for disability ever be filed.

MOTION: A motion to accept the information and include it with Mr. McClellans's pre-existing condition report was made by J. Hathcock.

Discussion:

Board member Mark Smalley felt the current motion should be amended to say that the Board received the documentation, rather than accepted the documentation, as he felt that language could imply the Board accepts the condition is not pre-existing.

AMENDED MOTION: A motion that the Board received the additional medical information from Mr. McClellan and will maintain it on file with his pre-existing condition report was made by J. Hathcock. Motion was seconded and passed unanimously. **CORP 2014-64**

Determination of Position Eligibility:

Graham County recently created a Juvenile Court Counselor position and contacted the Local Board office for guidance as to whether or not the position was a CORP designated position. The Board Secretary informed Cindy Norris, Administrative Assistant for the Graham County Board of Supervisors, that the Local Board would need to review the position description and make the determination. However, since the department was filling this position before this meeting, the Board Secretary consulted with the Board Attorney to give preliminary direction to Graham County to assign the position to ASRS.

After review of the position description and the Joinder Agreement, the Board agreed that a Juvenile Court Counselor does not qualify as a designated CORP position.

MOTION: A motion that the Board finds the position of Juvenile Court Counselor (Graham County) does not meet the eligibility criteria for a designated CORP position was made by R. Lubitz. Motion was seconded and passed unanimously. **CORP 2014-65**

Approval of 2015 Meeting Dates:

The following meeting dates for 2015 were proposed for the Board’s consideration. Meeting dates were chosen based on availability of the meeting room and in light of the PSPRS requirement to receive Board-approved retirement documentation by the 10th of the month to ensure timely payment of benefits.

All meetings are scheduled to begin at 10:00 a.m.

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|---------------------------|-----------|
| January 6 th | Tuesday |
| February 3 rd | Tuesday |
| March 3 rd | Tuesday |
| April 6 th | Monday |
| May 5 th | Tuesday |
| June 2 nd | Tuesday |
| July 7 th | Tuesday |
| August 4 th | Tuesday |
| September 8 th | Tuesday |
| October 6 th | Tuesday |
| November 3 rd | Tuesday |
| December 2 nd | Wednesday |

MOTION: A motion to approve the proposed Board meeting dates for 2015 was made by M. Smalley. Motion was seconded and passed unanimously. **CORP 2014-66**

Approval of 2015 Election Process:

The Board Secretary advised that Board member Jason Hathcock’s term will expire on June 30, 2015. Pursuant to A.R.S. §38-893, the Board must conduct an election to fill that position on the Board effective July 1, 2015.

A proposed Action Plan to conduct the election was provided for the Board’s review.

A vacancy in a position to be appointed by the Chief Justice will also occur on June 30, 2015, when member Phil Hanley’s term ends. Staff will work with the Chair to identify one or more candidates who “shall be the head of a human resource department for the group of members” to put forward for consideration by Chief Justice Bales. An appointment for that position will be made by May 31, 2015.

MOTION: A motion to approve the election plan for the Board vacancy that will occur when member Jason Hathcock's term ends on June 30, 2015 was made by M. Smalley. Motion was seconded and passed unanimously. **CORP 2014-67**

Approval of Normal Retirement Benefits:

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:

The Board Secretary advised that that the effective CORP retirement date for all applicants except Ricardo E. Guerena and Mark E. Joerns is December 1, 2014. Mr. Guerena and Mr. Joerns have a November 1, 2014 effective date.

Brenda J. Flynn
Ricardo E. Guerena
Mark E. Joerns
Eugene R. Lehman
John P. Rego
Paula R. Schlecht
David G. Stadle
Francisco G. Villegas

MOTION: A motion to approve the payment of Normal Retirement benefits to the following applicants in about the following amounts and to note that the effective date of retirement for Ricardo E. Guerena and Mark E. Joerns was November 1, 2014, was made by J. Hathcock. Motion was seconded and passed unanimously. **CORP 2014-68**

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|------------------------|--|
| Brenda J. Flynn: | \$4,733.92 |
| Ricardo E. Guerena: | \$2,319.46 (effective November 1, 2014) |
| Mark E. Joerns: | \$2,096.64 (effective November 1, 2014) |
| Eugene R. Lehman: | \$2,216.78 |
| John P. Rego: | \$1,877.11 |
| Paula R. Schlecht: | \$3,745.58 |
| David G. Stadle: | \$3,621.98 (Reverse DROP Amount \$58,623.32) |
| Francisco G. Villegas: | \$1,885.31 |

Status Update: Membership Audit

At the Board's November 4, 2014 meeting, the Board Secretary advised that since it had been three months since the Pinal County exams were requested from Concentra, with monthly requests for information on the status of addressing the request and no reports provided by Concentra, the Board should consider contacting the Chief Probation Officer and Juvenile Court Director to request those 15 employees repeat their exams. Concentra was unable to provide reports dating back to 2007/2008 for other counties, which applies to about half of the Pinal officers, and the County was unable to provide documentation that 11 of the 15 officers even had an exam. Staff felt that it may be more efficient to request the officers take another exam.

The Board directed the Board Secretary to inform Pinal County management that the Board had been unable to obtain copies of missing exams for 15 officers, and ask that their departments pay for another exam, to be followed up with certified letters to the affected officers explaining the need to take another exam.

Pursuant to the Board's direction at the last meeting, the Board Secretary sent an email to Todd Zweig, Chief Adult Probation and Interim Juvenile Court Director, to notify him that 15 Pinal County members are asked to repeat their physical exam due to the Board's inability to retrieve their original exams from Concentra. Mr. Zweig has agreed to have the 15 officers retake the physical examination.

The Board Secretary sought further direction from the Board as to whether it considers sufficient notice to have been given to the members from Coconino (Philip A. Rehm) and Maricopa (Alisa M. Bryant) who have not completed another exam. Documentation of the certified mail and email delivery attempts were reviewed by the Board. In both cases with respect to the certified mail, the USPS did not indicate the letters were undeliverable but they did not obtain a delivery signature (for Mr. Rehm the USPS indicated a delivery date). In both cases with respect to the email notification, the recipient's system confirmed delivery of the email but the recipients did not respond to the 'read receipt' request attached to the email.

Board member Jason Hathcock feels that for Mr. Rehm, staff should try to obtain a home address from his employer and attempt to send another certified letter. As for Ms. Bryant, he feels that the certified letter sent to her home address and email sent to her work email is sufficient notice. Board Member Mark Smalley recommended making verbal contact with Ms. Bryant and possibly sending her a follow-up email to the phone call.

Regarding the annual audit the Board authorized at the September 9, 2014 meeting, the Board Secretary advised that on October 23, 2014, PSPRS provided a list of officers subject to this Board's jurisdiction and staff continues the process of auditing that list against Board records.

Acknowledgment of CORP Physical Pre-Existing Conditions:

The Chair noted, for the record, that the physical examination reports for members Heather M. Tinnelly and Justin Williams identified one or more pre-existing conditions. The Board approved these members for CORP membership at a prior meeting. A physical examination report was received after a 60-day notice was sent to each employee.

CORP Physical Exam Final Letters:

Certified letters were sent to five members on November 21, 2014, regarding non-receipt of the CORP physical examination after 60 days of receipt of their membership forms.

A.R.S. § 38-884.B. provides in part: "Any employee who fails or refuses to submit to the medical examination prescribed in this section is deemed to waive all rights to disability benefits under this article."

The Chair noted, for the record, that physical examination reports for Stevi Schwartz, Connor Stenson, Tracy L. Wensel, Philip York and Kimberly K. Zamora were not received within 60 days of receipt of their membership applications and that final letters requesting an examination were sent to these members via certified mail

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:

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|-----------------------|----------|------------|
| Chojnowski, Katarzyna | Maricopa | 11/10/2014 |
| Cockrell, Kaylynn | Pima | 10/13/2014 |
| Cordero, Felipe | Coconino | 10/1/2012 |
| Deese, Jonathan | Mohave | 9/8/2014 |
| Dubasik, Kim | Maricopa | 6/23/2014 |
| Gomez, Mario | Pima | 10/8/2014 |
| Hoyer, Christopher | Pima | 10/20/2014 |
| Johnson, Jayleen | Coconino | 10/13/2014 |
| Kay, Kelly | Graham | 10/20/2014 |
| Kelly, Zachary | Yuma | 10/9/2014 |
| King, Daniel | Maricopa | 9/29/2014 |
| Lawson, Mary | Coconino | 9/22/2014 |
| Lentz, Timothy | Coconino | 8/18/2014 |
| Moise, Frantz | Yavapai | 11/10/2014 |
| Moise, Laura | Maricopa | 9/22/2014 |
| Muhammad, Erika | Maricopa | 11/10/2014 |
| Myers, Haley | Maricopa | 11/10/2014 |
| Reyes, David | Yuma | 10/13/2014 |
| Schneider, Alicia | Yavapai | 9/28/2014 |
| Schwartz, Stevi | Coconino | 9/22/2014 |
| Stenson, Connor | Gila | 9/29/2014 |
| Villa, Kortni | Pima | 10/20/2014 |
| Villalobos, Diana | Pima | 10/20/2014 |
| Wensel, Tracy | Mohave | 8/25/2014 |
| White, Paul | Pima | 11/10/2014 |
| Yanez, Maria | Maricopa | 10/6/2014 |
| York, Philip | Gila | 10/6/2014 |
| Young, Steven | Pima | 11/3/2014 |
| Zamora, Kimberly | Gila | 9/29/2014 |

MOTION: A motion to approve the 29 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 applicants Kaylynn Cockrell, Jonathan Deese, Christopher Hoyer, Zachary Kelly, Daniel King, Frantz Moise, Haley Myers, and Alicia Schneider identified a physical or mental condition or injury that existed or occurred before the member's date of membership in the plan was made by R. Lubitz. Motion was seconded and passed unanimously. CORP 2014-69

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 10:41 a.m.

Transcribed December 9, 2014