Tempe

Minutes
Tempe Police Public Safety Personnel Retirement System Board
September 3, 2015

Minutes of the Tempe Police Public Safety Personnel Retirement System Board meeting, held on Thursday, September 3, 2015, 2:00 p.m., Tempe City Hall, third floor conference room, 31 E. 5th Street, Tempe, Arizona.

Board Members Present:
Mark W. Mitchell, Mayor
Joe Brosius
Kelly McMenemy
Jeff Millen
Dr. Russell Schoeneman

Legal Counsel Present:
Cynthia Kelley

City Staff Present:
Renie Broderick, Internal Services Director
Chris Hansen, Risk Manager
Tammy Milhon, HR Specialist
Susan Buck, Executive Assistant

Chair Mitchell called the meeting to order at 2:05 p.m.

ITEM I - Consideration of Meeting Minutes
Motion by Jeff Millen to approve the Police PSPRS Board Meeting Minutes of August 6, 2015; second by Kelly McMenemy. Motion passed unanimously on a voice vote 5-0.

ITEM II - Public Appearances
There were no public appearances.

ITEM III - Motion to Adjourn to Executive Session, if necessary
No Executive Session was held.

ITEM IV – New Members
Motion by Joe Brosius to accept the New Member application of **Duhjan D. Brown**; second by Jeff Millen. Motion passed unanimously on a voice vote 5-0.

ITEM V – Prior Service
The Board acknowledged the prior service purchase by **Charles J. Corning** of 3.336 years of military service.

ITEM VI - Retirement Application:
Motion by Jeff Millen to approve the application of **Mark K. Perkovich** for Normal Retirement, with a retirement date of 08/24/15; second by Joe Brosius. Motion passed unanimously on a voice vote 5-0.

ITEM VII – Status Update on Pending Disability Application:
Jeff Millen provided an update on the pending Application for Disability Benefits for **Steven J. Anderson**. Mr. Anderson underwent surgery a few weeks ago, which delayed his Independent Medical Exam (IME). The doctor has now released him for the IME, which is scheduled for 9/22/15.

ITEM VIII – Miscellaneous Questions Pertaining to Member Eligibility for Medical Retirement:
Kelly McMenemy stated that she has two questions for the Board to discuss with legal counsel:

1) Is a member who is hurt while working a non-pensionable job eligible for a PSPRS medical retirement?
2) Is a member who is injured traveling to/from work eligible for a PSRPS medical retirement?

Board Legal Counsel Cynthia Kelly stated the decision regarding injuries to/from work under PSPRS is up to the Local Board, but typically to be covered the member would have to be "on the clock". For instance, motor officers are typically covered to/from work because they are still considered on the clock, but others are not because they are not on the clock.

Ms. McMenemy stated that there are people not signing up for off-duty, non-pensionable jobs because they are concerned they would not be covered under PSPRS if something happened. Ms. Kelly stated that if the work is not considered pensionable and there were no contributions for that work, then it is not covered under PSPRS. Jeff Millen noted that some of the members are required to bring their Police vehicles or are being directed by the City to do so; the bigger question is if the work is pensionable. Ms. Kelly stated that she conferred with senior counsel at her firm and they believe that if the City has made the determination that the work it is not pensionable, then it is not covered under PSPRS; however this has not been tested in an actual case. The Board discussed several examples of off-duty work, pensionable vs. non-pensionable work and whether the work is paid directly through the City payroll system or via 1099. Jeff Millen stated a concern that if the City provides direction on how the work is to be done or if it is necessary for the member to call into the City if unable to report to the job on time, then that work shouldn't be non-pensionable.

Local Board Secretary Renie Broderick stated that there are several categories of off-duty work vetted through the Police Department and noted that there was originally a concern about Worker's Compensation if the employee is injured covering an off duty special event. That issue has been resolved via a fee that is paid to the City to cover Worker's Compensation. The question now is, if subsequent to that injury, the employee can request an accidental disability pension through PSPRS or if it has to be pensionable to be covered – and that question has not come up before. Ms. Broderick noted that staff made an inquiry to the State PSPRS office and the State said it has to be decided by the Local Board. Mr. Millen stated that there is a concern that if the issue is pressed, the end result could end up raising the rates for off-duty work. Ms. Broderick stated that Tempe and one other city were the last two that had off duty work paid through the payroll system and were required to make corrections to comply with State law; it would be helpful to know if this questions has come up in other municipalities. Ms. Kelly stated the question has been discussed, but the situation has not yet occurred anywhere.

The Board discussed other municipalities and their off-duty work practices as compared to the City of Tempe. Ms. Broderick stated that the real question is what would happen if someone is injured and the work was non-pensionable. Ms. McMenemy noted that the Board doesn't consider whether the work is pensionable or non-pensionable when making a decision – the Board has to look at whether the member was taking action as a Tempe police officer or just performing routine work for the off-duty contractor. Once an employee takes a police action, that employee becomes an officer and the situation changes. Ms. Kelley agreed that if an employee is taking police action, injury under that circumstance would be covered. Ms. Kelley further noted that the Board has broad authority to grant disability benefits, pensions and accept new members.

Mayor Mitchell requested that Ms. Broderick discuss the issue with the City Manager and bring it before City Council if necessary. Ms. Broderick stated that she will work with the team at the Police Department that implemented the non-pensionable off-duty work.

ITEM IX – Board Legal Counsel Contract Renewal:
Kelly McMenemy asked if the Procurement Office has reviewed the contract renewal and request for price increase. Renie Broderick stated that they have. Motion by Joe Brosius to approve the contract renewal for Board legal services with Ryan, Rapp & Underwood; second by Jeff Millen. Motion passed unanimously on a voice vote 5-0.

ITEM X – Future Meeting Date
October 1, 2015. Boardmember Joe Brosius stated that he will not be able to attend the October 1, 2015 meeting.

ITEM XI – Future Agenda Items
There were none.

Adjournment
Motion by Joe Brosius to adjourn; second by Jeff Millen. Motion passed unanimously on a voice vote 5-0. The meeting adjourned at 2:30 p.m.

Renie Broderick
Local Board Secretary