

**CITY OF PHILADELPHIA  
BOARD OF PENSIONS AND RETIREMENT  
Meeting of July 26, 2012**

**MINUTES**

On July 26, 2012, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:07 a.m. in the Board's Conference Room.

Present: Paula Weiss  
Harvey Rice  
Brian Albert  
Celia O'Leary  
Carol Stukes  
Anne Kelly King  
Ronald Stagliano  
John Reilly  
Veronica Pankey  
Hilary Cornell

Also Attending: Francis Bielli – Board of Pensions  
Mark Murphy, Shamika Taliaferro – Board of Pensions  
James Leonard, Christopher DiFusco - Law Department  
Katherine Mastrobuoni – Law Department  
Sumit Handa, Brad Woolworth - Board of Pensions, Investment Unit  
Andrew Thomas – Fire Department  
Chester Skaziak – Retired firefighter  
Catherine Lucy – Daily News  
Will Green

Paula Weiss stated that the first order of business was the consideration of the Minutes of June 27, 2012.

Ronald Stagliano made a motion to approve the Minutes of June 27, 2012. John Reilly seconded the motion.

Ms. Pankey asked for the record to show on Page 9 that she **opposed** the exclusion of Dr. McCoy from the Medical Panel. The correction was made.

**The motion to approve the Minutes of June 27, 2012 carried unanimously 8-0.**

**CONSIDERATION OF (129) PENSION APPLICATIONS AND (71) WITHDRAWAL APPLICATIONS**

Ronald Stagliano made a motion to approve. Carol Stukes seconded the motion.

**The motion to approve carried unanimously 8-0.**

## **APPLICATION FOR SERVICE-CONNECTED DISABILITY BENEFITS**

### **Case of Veronica Callahan, Application for Service-Connected Disability Benefits – Plan “A”**

This is an application by Veronica Callahan, former Fire Service Paramedic, Fire Department, for Service-Connected Disability Benefits in Plan “A”.

Ms. Callahan sustained an injury on December 29, 2009 while exiting her truck, when she slipped in a hole and twisted her left ankle. The nature of Ms. Callahan’s disability is limited mobility due to permanent nerve damage, chronic severe pain, and acute renal failure.

John Reilly made a motion to approve. Carol Stukes seconded the motion.

**The motion to approve carried unanimously 8-0.**

### **Case of Maria Rivera, Application for Service-Connected Disability Benefits - Plan “B”**

This is an application by Maria River, former Police Officer, Police Department, for Service-Connected Disability Benefits in Plan “B”.

Ms. Rivera sustained the injury while lifting a wheelchair bound resident and injured her neck and back. The nature of Ms. Rivera’s disability is limited mobility due to lower back pain, and numbness in her right leg. Her date of injury is July 11, 2007.

Brian Albert made a motion to deny. Celia O’Leary seconded the motion.

**The motion to deny carried 4-0-4.**

### **Case of Mack P. Evans, Application for Service-Connected Disability Benefits – Plan “J”**

This is an application by Mack P. Evans, former Custodial Worker I, Health Department, for Service-Connected Disability Benefits in Plan “J”.

Mr. Evans sustained the injury over a three year period of performing his duties. The nature of Mr. Evans’ disability is limited mobility due to herniated disc in his neck, back, and lower spine. His date of injury is 1995.

Hilary Cornell made a motion to deny. Brian Albert seconded the motion.

**The motion to deny carried 4-0-4.**

**Case of Wayne Hayes, Application for Service-Connected Disability Benefits – Plan “J”**

This is an application by Wayne Hayes, former Laborer, Streets Department, for Service-Connected Disability Benefits in Plan “J”.

Mr. Hayes sustained the injury when he was lifting a can of rubbish and slipped on a patch of ice injuring his neck and left shoulder. In another incident, Mr. Hayes slipped down a flight of steps at his work site injuring his right knee and right foot. Mr. Hayes sustained injuries to his back, neck, loss of strength in his hand and knees, shoulder pain, and numbness in right leg. His dates of injury are March 2, 2005 and October 15, 2007.

Hilary Cornell made a motion to deny. Brian Albert seconded the motion.

**The motion to deny carried 4-0-4.**

**Case of James W. Johnson (PPA), Application for Service-Connected Disability Benefits – Plan “J”**

This is an application by James W. Johnson, former Auto Parts Technician, Philadelphia Parking Authority, for Service-Connected Disability Benefits in Plan “J”.

Mr. Johnson sustained the injury when he slipped on gravel injuring his knee. In another incident, he stepped into a hole while he was walking and injured his left knee. The nature of Mr. Johnson’s disability is limited mobility due to a meniscus tear and left knee injury. His dates of injury are 03/18/97 and 07/03/98.

Hilary Cornell made a motion to deny. Brian Albert seconded the motion.

**The motion to deny carried 4-0-4.**

**Case of James Nevrincean, Application for Service-Connected Disability Benefits – Plan “Y”**

This is an application by James Nevrincean, former Telephone Technician, Office of Innovative Technology (OIT), for Service-Connected Disability Benefits in Plan “Y”.

Mr. Nevrincean sustained the injury while working when he became stuck between a wall and in an attempt to release himself he sustained an injury to his shoulder. His date of injury is October 30, 2010.

Carol Stukes made a motion to approve. Ronald Stagliano seconded the motion.

**The motion to approve carried unanimously 8-0.**

**Case of James Williams, Application for Service-Connected Disability Benefits – Plan “Y”**

This is an application by James Williams, former Laborer, Streets Department, for Service-Connected Disability Benefits in Plan “Y”.

Mr. Williams sustained the injury while he was emptying a trash can on the trash truck and injured his left shoulder. The nature of Mr. Williams’ disability is limited mobility due to pain in his shoulder with limited range of motion. His date of injury is March 1, 2010.

Carol Stukes made a motion to approve. Ronald Stagliano seconded the motion.

**The motion to approve carried unanimously 8-0.**

**Case of Michael G. Eaverly, Deceased, Appeal of Administrative Denial of Application for Ordinary Death Benefit Plan “Y”**

This is an application by Bianca Robinson, on behalf of her daughter, Kimberly Robinson, age 17, dependent child of Michael G. Eaverly for Ordinary Death benefits in Plan Y.

Michael G. Eaverly, former Court Administrative Officer 2, died as an active employee on February 21, 2012. He named his two sons: Michael G. Eaverly II, age 23, and Marcus T. Eaverly, age 17, as his beneficiaries on his Designation of Beneficiary for Pension Benefits form signed November 15, 2007.

Bianca Robinson has applied for Ordinary Death benefits on behalf of her daughter, Kimberly, who was not a named beneficiary of Michael G. Eaverly. In support of her claim, she has submitted the following items received April 23, 2012 by the Board of Pensions:

1. Letter from Bianca Robinson requesting to apply for Ordinary Death benefits on behalf of her daughter as her guardian.
2. Retirement Statement form signed by Ms. Robinson on behalf of her daughter on April 9, 2012
3. Original Certificate of Death for Michael G. Eaverly from the PA Department of Health.
4. Birth Certificate for Kimberly Arnell Robinson, date of birth August 13, 1994, listing Bianca Alvina Robinson as mother and Michael Eaverly as father.
5. April 8, 2012 printout from NJ Child Support – Case Info listing Custodial Parent: Bianca A. Robinson and Noncustodial Parent: Michael Eaverly
6. April 8, 2012 printout of Michael Eaverly Sr.’s Facebook page where under his basic information he states that he is the father of 2 sons and 1 daughter: Michael Jr., Kimberly and Marcus.
7. Social Security Administration Retirement, Survivors and Disability Insurance Notice of Award regarding Kimberly A. Robinson’s monthly child’s benefit beginning February 2012.
8. FedEx package label from Michael G. Eaverly to Kimberly Robinson sent December 21, 2011

Related documentation presented is the following:

1. November 15, 2007: Designation of Beneficiary for Pension Benefits signed by Michael G. Eaverly naming sons Michael G. Eaverly II and Marcus T. Eaverly.
2. February 23, 2012: Emails between Michele Ford and Dana Vincent in Courts Human Resources scheduling the Ordinary Death appointments for Mr. Eaverly's two named beneficiaries.
3. March 28, 2012: Emails between Yvonne Hobbs, Shelita Thomas, Stephen Martin and Michele Ford regarding Ms. Robinson's application.
4. March 30, 2012: Letter from Shelita Thomas to Bianca Robinson regarding her application for Ordinary Death benefits on behalf of Kimberly Robinson
5. May 3, 2012: Letter from Yvonne Hobbs to Bianca Robinson denying her application for Ordinary Death Benefits on behalf of Kimberly Robinson.
6. June 8, 2012: Letter from Bianca Robinson to Francis Bielli appealing Yvonne Hobbs' administrative denial of her application.

Per Title 22-502 (1) of the Philadelphia Public Employees Retirement System code:

*Qualifications.* Ordinary death benefits are paid to the designated beneficiary of a deceased employee or vested member who has not received any retirement or disability benefits from the Retirement System.

Currently, Mr. Eaverly's two named beneficiaries are receiving their lifetime Ordinary Death benefits.

If approved, Kimberly Robinson would be entitled to 1/3 of the Ordinary Death benefit.

Carol Stukes made a motion to deny. Hilary Cornell seconded the motion.

**The motion to deny carried unanimously 8-0.**

### **Case of Aleksandre Shwarz - Pension Disqualification and Termination of Benefits**

Aleksandre Shwarz was hired with the City of Philadelphia Police Department on September 11, 1989. After attaining 21 years, 3 months and 19 days of credited service, Mr. Shwarz separated effective January 19, 2011. He is currently receiving a monthly retirement benefit of \$2,427.70.

Inspector General Amy Kurland wrote to Executive Director Francis Bielli and provided documentation concerning the conviction of Mr. Shwarz on 5 counts involving obstruction of administration of law, false reports, false imprisonment, official oppression and unsworn falsification to authorities.

Mr. Shwarz was arrested for assaulting a U-Haul-store manager and later lying about it so that it appeared as if the manager had attacked him. For the incident as above-mentioned, Mr. Shwarz

was found guilty of various counts as outlined in the agreement and attached to this memorandum.

On July 2, 2012, Christopher DiFusco, Divisional Deputy City Solicitor, opined the crimes committed by Mr. Shwarz trigger the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, Mr. Shwarz is disqualified from pension eligibility.

Mr. DiFusco advises the Board must vote on the following:

- Whether Mr. Shwarz's benefits should be suspended in light of the information it has received regarding his convictions and sentencing in state court; and
- Whether Mr. Shwarz is subject to the permanent disqualification and termination of his retirement benefits.

Attached are the following:

1. Opinion from Christopher DiFusco, Divisional Deputy City Solicitor dated July 2, 2012.
2. Request from Inspector General Amy Kurland.
3. Order and supporting documentation.

Celia O'Leary made a motion to approve the suspension of current pension benefits, the permanent disqualification and termination of pension benefits and to retain any contributions to pay Court imposed fines. Brian Albert seconded the motion.

**The motion to suspend current pension benefits, permanently disqualify and terminate pension benefits and retain pension contributions to pay Court imposed fines carried unanimously 8-0.**

**Case of Casimir Lutz – Appeal of Pension Disqualification and Termination of Benefits, Plan “J”**

This case was **approved to suspend current pension benefits and permanently disqualify and terminate pension benefits** at the September 27, 2011 Board Meeting. A Hearing Panel was held on May 16, 2012.

The Hearing Panel votes are as follows:

Mr. James Leonard:	Recommend denial.
Ms. Veronica Pankey:	Recommend denial.
Mr. Harvey Rice:	Recommend denial. Deny appeal.

The history of the case is as follows:

Casimir Lutz was hired with the City of Philadelphia on March 5, 1973. After attaining 27 years, 0 months and 25 days of credited service, Mr. Lutz retired effective September 21, 2000 from the Police Department. He is currently receiving an Ordinary Disability Pension Retirement Benefit.

On August 18, 2011, Inspector General Amy Kurland wrote a letter and copied the Executive Director Francis Bielli, and provided documentation concerning the conviction of Casimir Lutz on one (1) count involving the HOBBS Act including Mail Fraud.

Mr. Lutz worked as an [On-Site Blacksmith] City employee with the Police Department where he supplied a vendor with unauthorized items during his employment. For the above-mentioned crime, Mr. Lutz pled guilty to all counts, as outlined in the agreement and attached to this memorandum.

On August 30, 2011, Christopher DiFusco, Divisional Deputy City Solicitor, opined the crime committed by Mr. Lutz triggers the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, based on the above-mentioned crimes, Mr. Lutz is disqualified from pension eligibility.

Mr. DiFusco advises the Board must vote on the following:

- Whether Mr. Lutz's benefit be immediately suspended, and
- Whether Casimir Lutz should be permanently disqualified and terminated from pension eligibility, and
- Whether Mr. Lutz's pension contributions should be retained for payment of any applicable outstanding court-ordered fines and restitution.

Attached are the following:

1. Opinion from Christopher DiFusco, Divisional Deputy City Solicitor dated August 30, 2011.
2. Request from Inspector General Amy Kurland, dated August 18, 2011.
3. Judgment and Conviction Order dated August 17, 2011.

Harvey Rice made a motion to deny the appeal of pension disqualification and termination of benefits. Brian Albert seconded the motion.

**The motion to deny Mr. Lutz's appeal of pension disqualification and termination of pension benefits carried unanimously 8-0.**

#### **Case of Anthony Floyd – Appeal of Pension Disqualification and Termination of Benefits, Plan "D"**

This case was **approved to immediately suspend and permanently disqualify and terminate pension eligibility and retain contributions to pay court fines and retribution** at the January 26, 2012 Board Meeting. A Hearing Panel was held on May 30, 2012.

The Hearing Panel votes are as follows:

Mr. James Leonard:	Recommend denial. Disqualify.
Ms. Veronica Pankey:	Recommend denial.
Ms. Paula Weiss:	Recommend denial. Deny appeal.

The history of the case is as follows:

Anthony Floyd was hired by the City of Philadelphia Police Department on September 26, 1984. After attaining twenty-five years, two months and four days of credited service, Mr. Floyd separated effective May 11, 2010. He is currently receiving monthly service pension benefits in the amount of \$3154.42

On October 28, 2011, Inspector General Amy Kurland wrote to Executive Director Francis Bielli, and provided documentation concerning the guilty plea of Anthony Floyd on one count of Stalking- Repeatedly Commit Acts to Cause Fear, for acts committed in connection with his employment.

Prior to his retirement, Mr. Floyd worked as Philadelphia Police Officer, and in this capacity, the City issued to him a cellular telephone. Between February 1, 2010, and February 3, 2010 Mr. Floyd used this cell phone to send a series of harassing and threatening phone calls to his girlfriend. These messages culminated in an assault on the girlfriend at her residence.

On January 18, 2012, Joshua Stein, Deputy City Solicitor, opined the crime committed by Mr. Floyd triggers the forfeiture and disqualification provisions of the Philadelphia Code. Therefore, based on the above-mentioned crime, Mr. Floyd is disqualified from pension eligibility.

Mr. Stein advises the Board must vote on the following:

- Whether to immediately suspend benefits currently being paid to Anthony Floyd.
- Whether Mr. Floyd should be permanently disqualified and terminated from pension eligibility, and
- Whether Mr. Floyd's pension contributions should be retained for payment of any applicable outstanding court-ordered fines and restitution.

Attached are the following:

1. Opinion from Joshua Stein, Deputy City Solicitor dated December January 18, 2012.
2. Request from Inspector General Amy Kurland, dated October 28, 2011.
3. Plea agreement and Notice of Sentencing, dated September 9, 2011.



Hilary Cornell made a motion to deny the appeal of pension disqualification and termination of benefits. Brian Albert seconded the motion.

**The motion to deny Mr. Floyd's appeal of pension disqualification and termination of pension benefits carried unanimously 8-0.**

**Executive Director's Report** – Mr. Bielli reported on the following:

The Trustee Board Election - Blank petitions will be available for the candidates August 6, 2012. The circulation period for the petitions' ends Friday, August 17, 2012 at 5:00 PM. Any specific questions should be directed to Dave Fegan or Francis Bielli.

The auditor who was formerly known as Clifton Gunderson is now Clifton . The RFP has gone out,

There were four responses received for the RFP. A subcommittee will be needed to review the responses prior to the August Board meeting.

The real estate RFP was posted Tuesday, July 24, 2012 and the responses close on August 13, 2012. The contract expires August 31, 2012. Sometime between then and the August Board meeting they would like the sub-committee to meet and review the responses to the RFP. Ms. Pankey, Mr. Stagliano, Ms. Cornell and Ms. Weiss volunteered to be on the subcommittee.

The Cortland contract expires August 1, 2012.

Put subcommittee together, address the rfp at the August meeting.

**Litigation Summary** – Mr. DiFusco stated the Litigation Summary will be send out by email.

Harvey Rice made a motion to adjourn. Hilary Cornell seconded the motion.

**The motion passed unanimously and the meeting adjourned at 9:13 a.m.**