

**CITY OF PHILADELPHIA  
BOARD OF PENSIONS AND RETIREMENT  
Meeting of August 25, 2011**

**MINUTES**

On August 25, 2011 Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:05 a.m. in the Board's Conference Room.

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

Also Attending: Francis Bielli, Mark Murphy, Shamika Taliaferro – Board of Pensions  
Joshua Stein, Benjamin Hinerfeld – Law Department  
Sumit Handa – Board of Pensions, Investment Unit  
Andrew Thomas – Fire Department  
Joseph Costin – Finance Department  
Chester Skaziak – Retiree  
Michael Hinkelman - Philadelphia Daily News  
Catherine Lucey – Philadelphia Daily News  
Wayne Pollock - Citizen  
Will Greene – Loop Capital Markets

Paula Weiss stated that the first order of business was the consideration of the Minutes of July 28, 2011.

Brian Albert made a motion to approve the Minutes of July 28, 2011. Celia O'Leary seconded the motion.

**The motion to approve the Minutes of July 28, 2011 carried unanimously 8-0.**

**CONSIDERATION OF (104) PENSION APPLICATIONS AND (101) WITHDRAWAL APPLICATIONS**

Brian Albert made a motion to approve. Celia O'Leary seconded the motion.

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

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

### **Case of Julia Dulaney, Application for Service-Connected Disability Benefits – Plan “B”**

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

Ms. Dulaney sustained an injury to her finger while performing a tactical move during training in the use of a baton. Her date of injury is August 24, 2009.

Carol Stukes made a motion to approve. Veronica Pankey seconded the motion.

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

### **Case of Dawn Pettus, Application for Service-Connected Disability Benefits – Plan “B”**

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

Ms. Pettus sustained injuries to her back while sitting in her patrol car, at a red light, when she was struck from behind by another vehicle. Her date of injury is September 30, 2005.

Carol Stukes made a motion to approve. Veronica Pankey seconded the motion.

Ronald Stagliano stated that he has a problem with the information that was provided in this case. He didn't understand how it was decided that a newspaper article has any value when it doesn't also include the response from her attorney to the newspaper. Also, the additional information sent over from Risk Management was selective. Dr. Glickman's report said Ms. Pettus is due solely, which makes three doctors who say she is due solely. He believed it is in the Board's best interest to table this case and have the Law Department go over the package and decide what should be included for the Board to see, although his fear is that the Board is already tainted by what they saw.

Ms. Stukes withdrew her motion to approve.

Joshua Stein stated that if there is something that was left out of the packet, in terms of a doctor's report, then it should be included. They can discuss what other information should be included.

Ms. Cornell added that Dr. McCoy's report has to be fixed because he wrote about another claimant in his report.

Ms. Stukes requested that in the future, if there is a case that has this much additional material, that it is pulled from the agenda and put on the following month, and not sent by email at the last minute.

Ms. Cornell explained that the file comes over from Dr. Korevaar at the time of her PNP review while some cases continue to be litigated; therefore there may be substantial information that was left out because it didn't happen yet.

There was discussion about the procedure in place with Risk Management and that it may need to be revisited in terms of the content of the files and the timeliness of when they come over to the Board of Pensions.

Mr. Bielli stated that may require editing of the regulations. The Board is following the procedures exactly 100% as it was laid out in the regulation. If the Board wants to change the regulation then there needs to be a legislative subcommittee to do that. If additional material is received from Risk Management to add to a case the day before then that's what will be done. If the Board wants it earlier then it should be submitted earlier.

Ronald Stagliano made a motion to table for 30 days. John Reilly seconded the motion.

**The motion to table for 30 days carried unanimously 8-0.**

**Case of Richard J. Brown, Application for Service-Connected Disability Benefits – Plan “D”**

This is an application by Richard J. Brown, former Police Lieutenant, Police Department, for Service-Connected Disability Benefits in Plan “D”.

Mr. Brown sustained an injury to his knee while in foot pursuit of a shooting suspect. His date of injury is December 6, 2006.

Mr. Stagliano stated that two of the three doctors say it is due solely.

Ronald Stagliano made a motion to approve. John Reilly seconded the motion.

**The vote tied 4-4. The Chair votes to deny making the vote 4-5. Motion fails and is denied.**

**Case of DeShane Riggins - Pension Disqualification and Termination of Benefits, Plan “B”**

DeShane Riggins was hired with the City of Philadelphia on April 17, 2000. After attaining 7 years, 9 months and 15 days of credited service, Mr. Riggins was dismissed effective February 26, 2008 from the Police Department. He is not receiving a Retirement Pension Benefit at this time.

On May 16, 2011, Inspector General Amy Kurland wrote to Executive Director Francis Bielli, and provided documentation concerning the conviction of DeShane Riggins on four (4) counts

involving the HOBBS Act including Insurance Fraud, Bribery, Tampering with Public Records/Information and Criminal Conspiracy.

Mr. Riggins worked as a City employee with the Police Department where he was engaged in writing phony accident reports. For the above-mentioned crime, Mr. Riggins was found guilty to all counts, as outlined in the agreement and attached to this memorandum.

On August 3, 2011, Christopher DiFusco, Divisional Deputy City Solicitor, opined the crime committed by Mr. Riggins triggers the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, based on the above-mentioned crimes of forgery, tampering with public records or information, official oppression and criminal conspiracy, Mr. Riggins is disqualified from pension eligibility.

Mr. DiFusco further advises the Board should vote on whether Mr. Riggins shall be subject to the permanent disqualification of his retirement benefits.

Attached are the following:

1. Opinion from Christopher DiFusco, Divisional Deputy City Solicitor dated August 3, 2011.
2. Request from Inspector General Amy Kurland, dated May 16, 2011.
3. Judgment and Conviction Order dated May 16, 2011.

Harvey Rice made a motion to permanently disqualify and terminate pension benefits. Brian Albert seconded the motion.

**The motion to approve pension disqualification and termination of pension benefits carried unanimously 8-0.**

#### **Case of Michael Gibbs- Pension Disqualification and Termination of Benefits, Plan "J"**

Michael Gibbs was hired with the City of Philadelphia on June 19, 1989. After attaining 18 years, 4 months and 20 days of credited service, Mr. Gibbs was dismissed effective December 1, 2007 from the Water Department. He is not receiving a Retirement Pension Benefit at this time.

On May 26, 2011, Inspector General Amy Kurland wrote a letter to the Executive Director Francis Bielli, and provided documentation concerning the conviction of Michael Gibbs on four (4) counts involving the HOBBS Act including Fraud, Forgery, Tampering with Public Records/Information and Theft by Deception.

Mr. Gibbs worked as a City employee with the Water Department where he was engaged in filing a false/fraudulent medical assistance claim. For the above-mentioned crime, Mr. Riggins was found guilty to all counts, as outlined in the agreement and attached to this memorandum.

On August 1, 2011, Joshua Stein, Deputy City Solicitor, opined the crime committed by Mr. Gibbs triggers the forfeiture and disqualification provisions of the Philadelphia Code and the

Public Employees Pension Forfeiture Act. Therefore, based on the above-mentioned crimes of forgery, tampering with public records or information, official oppression and criminal conspiracy, Mr. Gibbs is disqualified from pension eligibility.

Mr. Stein further advises the Board should vote on whether Mr. Gibbs shall be subject to permanent disqualification of his retirement benefits.

Attached are the following:

1. Opinion from Joshua Stein, Deputy City Solicitor dated August 1, 2011.
2. Request from Inspector General Amy Kurland, dated May 26, 2011.
3. Judgment and Conviction Order dated July 22, 2008.

Brian Albert made a motion to approve permanent pension disqualification of retirement benefits. Celia O'Leary seconded the motion.

**The motion to approve the permanent disqualification of pension benefits carried unanimously 8-0.**

Brian Albert made a motion to retain pension contributions in order to pay court ordered fines and restitution. Ronald Stagliano seconded the motion.

**The motion to retain pension contributions in order to pay court ordered fines and restitution carried unanimously 8-0.**

#### **Case of Gladys McDowell - Pension Disqualification and Termination of Benefits, Plan "Y"**

Gladys McDowell was hired with the City of Philadelphia on March 3, 1972. After attaining 20 years, 0 months and 6 days of credited service, including purchased service, Ms. McDowell retired effective September 13, 2002 from the First Judicial District of PA. She is collecting an Optional Early Retirement Pension Benefit at this time.

On July 25, 2011, Inspector General Amy Kurland wrote to Executive Director Francis Bielli, and provided documentation concerning the conviction of Gladys McDowell on four (4) counts involving the HOBBS Act including Forgery, Tampering with Public Records or Information, Official Oppression and Criminal Conspiracy.

Ms. McDowell worked as a City employee with the First Judicial District of PA where she was engaged in a conspiracy to create a fake warrant for her husband. For the above-mentioned crime, Ms. McDowell was found guilty to all counts, as outlined in the agreement and attached to this memorandum.

On August 1, 2011, Christopher DiFusco, Divisional Deputy City Solicitor, opined the crime committed by Ms. McDowell triggers the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, based on the

above-mentioned crimes of forgery, tampering with public records or information, official oppression and criminal conspiracy, Ms. McDowell is disqualified from pension eligibility.

Mr. DiFusco further advises the Board must vote on 2 matters-- (1) whether to terminate Ms. McDowell's benefit in light of the information received regarding the guilty verdict and (2) whether Ms. McDowell shall be subject to the permanent disqualification of her retirement benefits.

Attached are the following:

1. Opinion from Christopher DiFusco, Divisional Deputy City Solicitor dated August 1, 2011.
2. Request from Inspector General Amy Kurland, dated July 25, 2011.
3. Judgment and Conviction Order dated July 21, 2011.

Carol Stukes made a motion to suspend pension benefits. Brian Albert seconded the motion.

**The motion to approve the suspension of pension benefits carried unanimously 8-0.**

Harvey Rice made a motion to disqualify and terminate pension benefits. Brian Albert seconded the motion.

**The motion to approve the disqualification and termination of pension benefits carried unanimously 8-0.**

**Case of Laura Sommerer - Pension Disqualification and Termination of Benefits, Plan "Y"**

Laura Sommerer was hired with the City of Philadelphia on January 18, 2000. After attaining approximately 8 years, 8 months and 0 days of credited service, Ms. Sommerer was dismissed from employment effective August 18, 2008 from the Department of Human Services. She is not receiving a Pension Retirement Benefit at this time.

On May 14, 2010, Inspector General Amy Kurland wrote a letter and copied the Board of Pensions and provided documentation concerning the conviction of Laura Sommerer on one (1) count involving the HOBBS Act including Endangering the Welfare of Children.

Ms. Sommerer worked as a City employee with the Department of Human Services where she neglected to properly oversee and supervise the well-being of a minor, contributing to her death. Ms. Sommerer was found guilty to the count, as outlined in the agreement and attached to this memorandum.

On August 18, 2011, Joshua Stein, Deputy City Solicitor, opined the crime committed by Ms. Sommerer triggers the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, based on the above-mentioned crime, Ms. Sommerer is disqualified from pension eligibility.

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

Whether Ms. Sommerer should be permanently disqualified and terminated from pension eligibility, and whether Ms. Sommerer'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 August 18, 2011.
2. Request from Inspector General Amy Kurland, dated May 14, 2010.
3. Judgment and Conviction Order dated May 12, 2010.

Hilary Cornell made a motion to approve the permanent suspension and disqualification from pension benefits. Brian Albert seconded the motion.

**The motion to approve the suspension and disqualification from pension benefits carried unanimously 8-0.**

Hilary Cornell made a motion to retain contributions to pay court ordered fines and restitution. Brian Albert seconded the motion.

**The motion to approve to retain contributions to pay court ordered fines and restitution carried unanimously 8-0.**

**Case of Sherman Washington - Pension Disqualification and Termination of Benefits, Plan "Y"**

Sherman Washington was hired with the City of Philadelphia on June 1, 1987. After attaining 15, years, 11 months and 13 days of credited service, he retired effective November 26, 2003 from the department. Sherman Washington is collecting an Ordinary Disability Pension Benefit at this time.

On July 25, 2011, Inspector General Amy Kurland wrote to Executive Director Francis Bielli, and provided documentation concerning the conviction of Sherman Washington on two (2) counts involving the HOBBS Act including Unlawful Taking or Disposition and Criminal Conspiracy.

Sherman Washington worked as a City employee with the Police department where he unlawfully detained complainant. He took approximately \$3,500.00 from their person, without permission and intent to deprive. For the above-mentioned crime, Sherman Washington pled guilty on June 29, 2004 to all counts, as outlined in the agreement and attached to this memorandum.

On August 18, 2011, Joshua Stein, Deputy City Solicitor, opined the crime committed by Sherman Washington triggers the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, based on the above-mentioned crimes of Theft by Unlawful Taking or Disposition and Criminal Conspiracy, Sherman Washington is disqualified from pension eligibility.

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

Whether Mr. Washington's retirement benefits be immediately suspended, and whether Mr. Washington should be permanently disqualified and terminated from pension eligibility, and whether Mr. Washington'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 August 18, 2011.
2. Request from Inspector General Amy Kurland, dated July 25, 2011.
3. Judgment and Conviction Order dated July 21, 2011.

Brian Albert made a motion to approve the suspension of pension benefits. Hilary Cornell seconded the motion.

**The motion to approve the suspension of pension benefits carried unanimously 8-0.**

Harvey Rice made a motion to approve the permanent disqualification and termination of pension benefits. Hilary Cornell seconded the motion.

**The motion to approve the permanent disqualification and termination of pension benefits carried unanimously 8-0.**

Ms. Stukes requested that the Law Department provide clarification on what "malfeasance" includes and what the terminology means for the Board.

Mr. Stein stated he will put something in writing and give a short presentation at the next meeting.

There was a brief discussion about the pension disqualification cases and why the various motions are needed. The Law Department explained that they want to make sure nothing slips through the cracks.

## **NEW BUSINESS**

- **Executive Director's Report** – Mr. Bielli stated that the annual audit by Clifton Gunderson is underway and the Annual Report has been completed. It had been posted on the website and by request a hard copy can be mailed out. The Office is continuing to work with the

ERP, which is the technology enhancement evaluation process including the best practices as to how the pension system fits into the ERP system.

**a. Business and Education Travel Authorization**

Brian Albert made a motion to approve John Reilly and Veronica Pankey's request to attend the 2011 Public Safety Employees Conference in Rancho Mirage, CA from October 8-12, 2011. Carol Stukes seconded the motion.

**The motion to approve John Reilly and Veronica Pankey to attend the 2011 Public Safety Employees Conference in Rancho Mirage, CA from October 8-12, 2011 carried 6-0-2.**

**FYI**

- a. Litigation Summary** – Mr. Stein stated that the only change since last month is the Watson case which is a request to revoke survivorship option. The Board's decision was upheld in an order dated July 21, 2011. The cases that remain pending were listed.

Brian Albert made a motion to adjourn. Celia O'Leary seconded the motion.

The meeting adjourned at 9:28 a.m.