

**CITY OF PHILADELPHIA
BOARD OF PENSIONS AND RETIREMENT
Meeting of March 27, 2014**

MINUTES

On March 27, 2014, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:02 a.m. in the Board's Conference Room.

Present: Paula Weiss
William Rubin
Brian Albert
Patricia Fitzgerald
Carol Stukes-Baylor
Ronald Stagliano
Andrew Thomas
Veronica Pankey
James Leonard

Also Attending: Francis Bielli - Board of Pensions
Mark Murphy - Board of Pensions
Sumit Handa, Brad Woolworth - Investment Unit
Ellen Berkowitz, Katharine Janoski – Law Department
Mondrell Moore - Earnest Partners
Will Greene – Capital Loop
Pam McCue – Financial Investment News
Anu Patel, Karen Zangara - Cheiron Consulting

Ms. Weiss stated that the first order of business was the consideration of the Minutes of February 27, 2014.

William Rubin made a motion to approve the Minutes of February 27, 2014. Ronald Stagliano seconded the motion.

The motion to approve the Minutes of January 23, 2014 carried 7-0-1.

The Board welcomed Patricia Fitzgerald who took Celia O'Leary's place on the Board as an alternate for Human Resources Director, Albert D'Attilio. Ms. Weiss performed the swearing in of Ms. Fitzgerald.

CONSIDERATION OF (127) PENSION APPLICATIONS AND (54) WITHDRAWAL APPLICATIONS

Brian Albert made a motion to approve. Ronald Stagliano seconded the motion.

The motion to approve carried unanimously 8-0.

An Executive Session was not held.

APPLICATION FOR SERVICE-CONNECTED DISABILITY BENEFITS

Case of Lisa M. Marshall-Lackey, Application for Service-Connected Disability Benefits – Plan “A”

This is an application by Lisa M. Marshall-Lackey, former Fire Service Paramedic, Fire Department, for Service-Connected Disability Benefits in Plan “A”.

According to Ms. Marshall-Lackey, she sustained a knee injury while working when she was assisting a patient when she slipped on the wet floor. The date of her injury is March 21, 2012.

Mr. Thomas commented that Dr. Weinerman states in his report on page 3 that he did not have enough time to review Dr. Miller’s report, however, Dr. Miller’s report is not in the packet.

Andrew Thomas made a motion to send to a hearing panel. Ronald Stagliano seconded the motion.

The motion to send to a hearing panel carried unanimously 8-0.

Case of Kenneth Steward, Application for Service-Connected Disability Benefits – Plan “J”

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

According to Mr. Steward, he sustained an injury to his back while working when he was picking up a recycling can/bin. The date of his injury is May 15, 2007.

Brian Albert made a motion to deny. Patricia Fitzgerald seconded the motion.

The motion to deny carried 4-3-1.

Case of Melvin Henson, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Melvin Henson, former Equipment Operator, Streets Department, for Service-Connected Disability Benefits in Plan “Y”.

According to Mr. Henson, he sustained the injury while working when he was involved in a motor vehicle accident. He further stated that his disability was to his shoulder and neck and the date of his injury is February 25, 2013.

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

The motion to approve carried unanimously 8-0.

APPLICATION FOR ORDINARY DISABILITY BEYOND THE ONE-YEAR DEADLINE

Case of Michael P. Williams, Application for Ordinary Disability Benefits Beyond the One-Year Deadline – Plan Y5

Michael P. Williams, a former Senior Attorney with the Law Department, was separated from employment September 20, 2012. On February 6, 2014, he applied for Ordinary Disability benefits without realizing he was beyond the one year deadline to apply.

On February 10, 2014, Mr. Williams' application was denied because he was beyond his one year deadline, which expired September 20, 2013. On February 21, 2014, the Board received Mr. Williams' appeal explaining the cause of delay.

Brian Albert made a motion to deny. Patricia Fitzgerald seconded the motion.

The motion to deny carried 5-2-1.

Case of Frank Teppar – Pension Disqualification, Plan "B"

Frank Teppar was hired on October 25, 1993, with the City of Philadelphia Police Department and is a member of Plan B. He was terminated effective January 30, 2010. He is currently receiving an Optional Early Pension in the amount of \$1,174.07 per month.

Mr. Teppar was convicted of first degree murder and related offenses on February 23, 2012 for the shooting death of William Panas, Jr., on November 9, 2009. He was sentenced to life without parole and ordered to pay restitution of \$12,686.00 on April 4, 2012. Because reports indicated that Mr. Teppar was off-duty at the time of the murder, the Law Department initially concluded in May 2012 that it was not possible to disqualify him.

However, Mr. Teppar and the City were subsequently named as defendants in a Section 1983 civil rights action in United States District Court. The jury charge explained, inter alia, that to

determine whether Mr. Tepper was acting “under color of state law,” the jury had to find that Mr. Tepper “was using power that he possessed by virtue of his employment as a police officer” and that the jury could look to certain facts to reach this conclusion, including but not limited to whether he was on or off duty, whether the events took place in Philadelphia County or elsewhere, and whether he identified himself as a police officer. While finding in favor of the City, the jury nonetheless found that Mr. Tepper was “a state actor at the time that he murdered William Panas, Jr.” and ordered that he pay restitution in the amount of \$4,742,000.00. Verdict sheet, December 11, 2012.

On March 19, 2014, Ellen Berkowitz, Deputy City Solicitor, opined that the civil finding that Mr. Tepper acted “under color of state law” when he committed the murder created a sufficient nexus to his employment as a police officer to trigger the disqualification provisions of the Philadelphia Code, Section 22-1302(1)(a)(.5), *Malfeasance in office or employment*. Mr. Tepper is therefore disqualified from pension eligibility.

Ms. Berkowitz advises the Board must vote on the following:

- Whether Mr. Tepper should be permanently disqualified and terminated from pension eligibility.

William Rubin made a motion to approve the disqualification. James Leonard seconded the motion.

The motion to permanently disqualify and terminate from pension eligibility carried 5-0-3.

OLD BUSINESS

Case of Andrea L. Chaney, Appeal of Application to Apply for Service-Connected Disability Benefits Beyond the One Year Deadline – Plan “Y”

This case was **denied** at the January 23, 2014 Board Meeting. A Hearing Panel was held on February 26, 2014.

The Hearing Panel votes are as follows:

Mr. James Leonard:	Recommend denial.
Mr. Ronald Stagliano:	Recommend denial.
Ms. Paula Weiss:	Recommend denial.

The history of the case is as follows:

This is an application by Andrea L. Chaney, a member and former employee, to make an application for Service-Connected Disability Retirement benefits beyond the one year deadline.

Andrea L. Chaney, a former Correctional Officer for the Philadelphia Prisons System, separated from City service effective March 12, 2012, following a leave of absence.

On June 25, 2012, Ms. Chaney applied to withdraw her pension contributions. She also signed the disability filing deadline form. This letter informed her that application for disability benefits must be made within one year of separation of City employment.

On November 20, 2013, Ms. Chaney applied for Service-Connected Disability benefits. Her application was administratively denied on November 26, 2013.

During her interview on November 20, 2013, she was presented with the disability filing deadline paper that she signed on June 23, 2012. She confirmed that it was her signature but said she did not remember signing the form.

Ms. Chaney continues to receive Workers' Compensation since November 1, 2010.

Brian Albert made a motion to deny. Patricia Fitzgerald seconded the motion.

The motion to deny carried 6-0-2.

NEW BUSINESS

Executive Director's Report – Mr. Bielli updated the Board on the following subjects.

- A memo from the Department of Records was received which stated that the changes and updates to the Regulations were approved, with the exception of Regulation 6 (DROP). The regulations will become official at midnight on April 21, 2014 absent request for a hearing.
- The Budget Testimony is scheduled for Tuesday, April 1, 2014 at 3:30 pm.
- Effective April 14, 2014, Mark Murphy will be reassigned to the One Philly Project. He will still attend monthly Board meetings to provide the Board with updates on the project. He will also attend weekly Administrators' meetings and bi-weekly meetings with the Law Department regarding the Modernization Project and the continued interpretation and breakdown of the Code. Shamika Taliaferro will be assuming the role of Deputy Director. Mr. Bielli thanked Mr. Murphy for the work he has done and Ms. Taliaferro for taking on the job of Deputy Director.
- Ms. Weiss will be scheduling a subcommittee regarding the DROP Regulations, as they have not been approved yet.

Litigation Summary – Ms. Berkowitz stated there are three cases in Commonwealth Court with appeals that are pending.

Mr. Leonard introduced Katharine Janoski who will be helping out in their practice unit while Ms. Rosenberger-Altman is on a leave of absence. The Law Department is currently looking for a replacement for Ms. Mastrobuoni who went to a private law firm.

Brian Albert made a motion to adjourn. Ronald Stagliano seconded the motion. The meeting adjourned at 9:14 a.m.