

**CITY OF PHILADELPHIA  
BOARD OF PENSIONS AND RETIREMENT  
Meeting of December 3, 2015**

**MINUTES**

On December 3, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:06 a.m. in the Board's Conference Room.

Present: Paula Weiss  
William Rubin  
Brian Albert  
Patricia Fitzgerald  
Carol Stukes-Baylor  
Ronald Stagliano  
Brian Coughlin  
Veronica Pankey  
David Magaldi

Also Attending: Francis Bielli - Board of Pensions  
Shamika Taliaferro – Board of Pensions  
Jo Rosenberger Altman – Law Department  
Ellen Berkowitz – Law Department  
Adam Coleman – Law Department  
Brad Woolworth – Investment Unit  
Christopher DiFusco, Dan Falkowski – Investment Unit  
Kristyn Bair, Aubrey Hassan – Investment Unit  
Pam McCue – Financial Investment News  
Mark Johnson – Cliffwater  
Pete Keliutis - Cliffwater

Ms. Weiss stated that the first order of business was the consideration of the Minutes of October 22, 2015.

Brian Albert made a motion to approve the Minutes of October 22, 2015. Ronald Stagliano seconded the motion.

**The motion to approve carried unanimously 6-0-1.**

**CONSIDERATION OF 116 PENSION APPLICATIONS AND 114 WITHDRAWAL APPLICATIONS**

Brian Albert made a motion to approve. Veronica Pankey seconded the motion.

**The motion to approve carried unanimously 7-0.**

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

### **Case of Walter J. Brennan Jr., Application for Service-Connected Disability Benefits Plan “B”**

This is an application submitted by Walter Brennan, former police officer for Service-Connected Disability benefits under Pension Plan “B”.

According to Mr. Brennan, on November 29, 2010 his “high” handcuffed prisoner lost his footing and was about to fall face forward onto the pavement. Mr. Brennan grabbed the prisoner’s belt and immediately felt severe pain in his elbow that radiated down his arm.

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

**The motion to approve carried unanimously 7-0.**

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

This is an application submitted by Christopher Cummings, former police officer for Service-Connected Disability benefits under Pension Plan “B”.

According to Mr. Cummings, on December 11, 2012 while responding to a radio call involving a person with a gun, he entered the bar and provided assistance to an officer that was under assault. During the altercation Mr. Cummings sustained an injury to a finger.

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

**The motion to approve carried unanimously 7-0.**

### **Case of Michael Conly, Application for Service-Connected Disability Benefits – Plan D**

This is an application submitted by Michael Conly, former police officer for Service-Connected Disability benefits under Pension Plan “D”.

According to Mr. Conly on February 24, 2014, while ascending a ladder aboard the USS Somerset the top of his head impacted (came in contact with) the deck above. Mr. Conly states he lost consciousness and suffered a spine injury.

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

**The motion to deny carried 5-0-1.**

**Case of Susan M. Ehrmann, Application for Service-Connected Disability Benefits Plan “D”**

This is an application submitted by Susan Ehrmann, former police officer for Service-Connected Disability benefits under Pension Plan “D”.

According to Ms. Ehrmann on September 17, 2013 she was walking across the police parking lot to deliver mail when she stepped up onto the sidewalk and rolled her right ankle. She reports that on April 23, 2014 while engaged in aquatic therapy; she exited the pool, slipped and fell against the railing, injuring her shoulder and neck.

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

**The motion to approve carried unanimously 7-0.**

Ms. Weiss introduced and welcomed new Board member David Magaldi who is representing the City Solicitors’ office.

**APPLICATION FOR SERVICE/DROP BENEFITS UNDER SURVIVORSHIP OPTION #2 BY SPOUSE ON BEHALF ON INCAPACITATED MEMBER**

**Case of Diane J. Everly, Application for Service/Drop Benefits Under Survivorship Option #2 by Husband on Behalf of Incapacitated Member in Plan “Y”**

This is an application by Gary M. Everly, Husband of Diane J. Everly, for Board approval to name himself as her survivor under Option#2.

Diane J. Everly, a Clerical Supervisor with the Health Department was diagnosed with a brain tumor in July, 2015. She separated from City service on October 2, 2015. Ms. Everly has not received any pension payments.

Mrs. Everly’s monthly benefit is approximately \$1024.00. A selection of Survivorship Option #2 would reduce the benefit to approximately \$890.68 monthly. Mr. Everly will receive the same amount for his lifetime.

Ms. Weiss explained that Mr. Everly is making application for his wife as she is incapacitated. She also explained that the marriage certificate was part of the information included with the DROP application along with the social security card and history of any name changes.

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

**The motion to approve carried unanimously 7-0.**

**Case of Donna Mumford, Appeal of Administrative Denial of Ordinary Disability Application- Plan "B"**

This is the case of Donna Mumford, former police officer, for appeal of the administrative denial of her application for Ordinary Disability Benefits.

Ms. Mumford separated from employment effective February 26, 2014. She has approximately 16 years, 2 months, and 27 days of credited service.

Ms. Mumford applied for both Service Connected Disability and Ordinary Disability pension benefits on March 24, 2014. Medical Director Dr. George Hayes issued a determination of Non-Service Connected Disability on April 21, 2014.

Since an award of Service Connected Disability would supersede entitlement to any other service or disability retirement benefit and be subject to offset for receipt of Workers' Compensation benefits, no disposition of Ms. Mumford's Ordinary Disability application was made prior to the receipt of the disposition of her Service Connected Disability application.

Ms. Mumford's Service Connected Disability application was denied at the March 26, 2015 Board meeting.

In a letter date April 23, 2015, Donna Mumford appealed the Board's denial of her Service Connected Disability application. A hearing on the issue was scheduled for July 1, 2015.

Ms. Mumford's attorney, W. Michael Mulvey, forwarded a letter dated July 8, 2015 withdrawing Ms. Mumford's appeal of the denial of her Service Connected Disability application.

Additionally, he requested a hearing to present evidence to the board that Ms. Mumford should be permitted to apply for Ordinary Disability benefits per the retirement code.

Ms. Mumford met with staff on October 23, 2015 to reconfirm elections made on her March 24, 2014 Ordinary Disability application and to discuss a potential application for Optional Early retirement benefits.

Following staff review, Pension Program Administrator Stacey White forwarded a letter of administrative denial of Ms. Mumford's Ordinary Disability application due to Section 22-402(5) of the Pension Code regarding entitlement to Workers' Compensation benefits for members other than Fire and Sheriff's employees.

Ms. Mumford's regular Workers' Compensation payments concluded on February 22, 2014, and her Compromise and Release Agreement lump sum payment was issued on February 24, 2014. She was separated from City employment effective February 26, 2014. Paragraph 13 of her Compromise and Release Agreement states, however, that her lump sum payment represents payment of all future claims for Workers' Compensation indemnity benefits. Additionally, paragraph 13 gives life expectancy information for Ms. Mumford of 41 years (492 months) for purposes of Social Security offset. For applicants who have been approved for Service Connected Disability pension benefits and have received Compromise and Release Agreements with life expectancy information, the lump sum benefit is offset from the Service Connected Disability benefit accordingly.

Ms. Mumford forwarded a letter dated November 13, 2015 appealing the denial of her Ordinary Disability application. An appeal letter, dated November 11, 2015, from her attorney was received on November 16, 2015.

Ronald Stagliano made a motion to table the case until Ms. Stukes-Baylor arrived. Brian Coughlin seconded the motion. The motion to table carried unanimously 7-0.

The Board came back to the case when Ms. Stukes-Baylor arrived and discussed the particulars of the case; Workers' Compensation, the disability process and the Pension Code.

Ronald Stagliano made a motion to approve. William Rubin seconded the motion.

**The motion to approve Ordinary Disability benefits carried 5-3.**

## **APPEAL OF ADMINISTRATIVE DENIAL TO WITHDRAW FROM DROP**

### **Case of Michael R. Keeler, Appeal of Administrative Denial to Withdraw from DROP-Plan**

**J**

This is an appeal by Michael R. Keeler of an administrative denial of his request to withdraw from DROP.

Michael R. Keeler, Water Department crew chief, was hired on December 31, 1984 and applied for DROP July 30, 2015. He requested a DROP entry date of January 11, 2016.

On August 4, 2015 a letter was sent from the Board of Pensions confirming his acceptance into DROP with an entry date of January 11, 2016.

On September 29, 2015 the Board of Pensions received a letter from Mr. Keeler asking to withdraw from DROP.

On October 5, 2015 an administrative denial was mailed to Mr. Keeler.

On October 13, 2015 the Board received Mr. Keeler's appeal of the administrative denial.

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

**The motion to deny carried 6-1.**

**OLD BUSINESS**

**Case of Marjorie G. Ellison, Application for Service-Connected Disability benefits– Plan “D”**

This case was **denied** at the Board meeting held on January 22, 2015. A hearing panel was held on September 30, 2015.

The hearing panel recommendations are as follows:

Brian Albert:	Denial
Veronica M. Pankey:	Denied
Patricia Fitzgerald:	Deny

Case Summary:

This is an application submitted by Marjorie Ellison, former police officer for Service-Connected Disability benefits under Pension Plan “D”.

According to Ms. Ellison, on July 11, 2009 she slipped on a wet cobblestone street and injured her wrist in an attempt to break her fall. Her complaints are wrist and lower back pain which were escalated due to a fall down a flight of stairs. No date is specified for the fall.

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

**The motion to deny carried 6-0-1.**

**Case of Charles Ondrejka, Request to apply for Service-Connected Disability benefits**

This case was **deferred** to a hearing panel at the Board meeting held on July 24, 2014. A hearing panel was held on September 30, 2015.

The hearing panel recommendations are as follows:

Brian Albert:	Denial
Veronica M. Pankey:	Denied-no additional medical information presented to differ from <u>all</u> physicians
Patricia Fitzgerald:	Deny

Case Summary:

This is an application submitted by Charles Ondrejka, former Chief of Staff with the Sheriff’s Department for Service-Connected Disability benefits under Pension Plan “Y”

According to Mr. Ondrejka, on January 3, 2012, while removing some boxes off a shelf he lost his footing and was crushed beneath the boxes. Mr. Ondrejka states that he sustained injuries to his neck, back, left leg and calf.

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

**The motion to deny carried 4-2-1.**

**Case of Adoniram Ulloa, Deceased, Application for Survivorship Benefits as Common-Law Spouse – Plan D**

This is an application by Evelyn Ortiz-Ulloa for survivorship benefits in Plan D. This case was denied at the Board meeting held on July 25, 2015. A Hearing Panel was held on October 7, 2015.

The hearing panel recommendations are as follows:

William Rubin:	Denied – Still married at the time of retirement to first spouse
Carol Stukes-Baylor:	Deny – Mrs. Ulloa does not meet the common-law requirement
Brian Coughlin:	Denial recommended based on pension code and legal documentation presented showing marriage after date of retirement

Case Summary:

Adoniram Ulloa, a Police Officer with the Philadelphia Police Department retired April 22, 2000. Mr. Ulloa died on November 15, 2014.

At the time of his retirement, Mr. Ulloa chose option 4 and named his daughter, Lisa-Marie Gonzalez as the survivor of his pension benefit.

Evelyn Ortiz-Ulloa is applying to have the Board of Pensions recognize her 25-year relationship with Mr. Ulloa as common law marriage.

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

**The motion to deny carried unanimously 7-0.**

**Case of Sarwat A. Bhatti, Request to purchase pension credit for prior governmental service and service with a private entity occurring after City employment**

This case was denied at the Board Meeting held on February 26, 2015. A hearing panel was held on October 14, 2015.

The hearing panel recommendations are as follows:

Paula Weiss, Esq.:	Denied-petitioner failed to appear; denied as to the merits of her appeal as petitioner did not present sufficient evidence to support her appeal
Ronald Stagliano:	Denied
Patricia Fitzgerald:	Deny

Case Summary:

Dr. Sarwat Bhatti was originally hired as a clinician with the Health Department effective February 6, 2006. She resigned voluntarily effective August 9, 2008 and did not receive a refund of her pension contributions.

On December 10, 2014, Dr. Bhatti applied to purchase pension service credit for prior governmental service for her employment with Spectrum Health Services and Covenant House Incorporated. Her dates of employment with these entities: Spectrum Health Services-October 29, 2001 through November 3, 2006; Covenant House Inc.-August 18, 2008 through August 9, 2012.

Verification of employment with Covenant House Inc. was received December 10, 2014 and verification of employment with Spectrum Health Services was received December 11, 2014. December 22, 2014, a representative from Spectrum Health Services verified that they are a private entity that is federally qualified but not federally funded.

December 23, 2014, the Law Department confirmed that prior employment with Spectrum Health Services is not eligible for purchase. Dr. Bhatti's employment with Covenant House Inc. occurred after her employment with the City of Philadelphia and is not eligible to purchase.

Dr. Bhatti's applications for repurchase of prior governmental service were administratively denied on January 5, 2015. Dr. Bhatti appealed the decision on January 20, 2015.

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

**The motion to deny carried unanimously 7-0.**

**Case of Rex Rosiji, Appeal of Administrative Denial to purchase pension credit for an unpaid Leave of Absence beyond the Thirty (30) Day Appeal Period- Plan B**

This case was deferred to a Hearing Panel at the Board meeting held on August 27, 2015. A hearing panel was held on October 7, 2015.

The hearing panel recommendations are as follows:

- William Rubin: Approve based on Judge's order and agreement signed.
- Carol Stukes-Baylor: Approve to allow him to appeal beyond the deadline per the Judge's order of May 19, 2015.
- Brian Coughlin: Based on Court order dated May 19, 2015 and settlement agreement language I recommend approval of the request to appeal beyond the thirty (30) day window. Mr. Rosiji's attorney should be reprimanded for not following clear process.

Case Summary:

Police Officer Rex Rosiji was dismissed effective June 13, 2006 and reinstated without back pay effective December 2, 2008, pursuant to the terms of a settlement agreement that characterized 30 days of that period as a suspension and the rest as an unpaid leave of absence. Mr. Rosiji applied to purchase credit for the period of unpaid leave in December 2008 pursuant to this agreement, was administratively denied, and did not appeal the denial.

In late 2014, Mr. Rosiji again approached the Board asking to purchase service credit for this period, pursuant to the December 2008 settlement agreement and a January 2009 settlement amendment, which eliminated the phrase "unpaid leave of absence" and stated that "[t]he Grievant shall be given seniority credit for the intervening period between the day after the end of the suspension, 7/13/06, and 12/2/08 for the purposes of his pension plan, to the extent that he will be allowed to purchase, at his own expense, any benefit that would have accrued during the intervening period pursuant to standard practice. This purchase should include any contributions that would have been made by the City of Philadelphia."

By letter of 2/2/15, Mr. Rosiji's attorney, David S. Dessen, Esq., requested that Mr. Rosiji be permitted to purchase pension credit for the period identified in the settlement. His request was forwarded to the Law Department, which opined that it should be denied. The request was administratively denied by letter of 3/3/15, which informed Mr. Rosiji's attorney that he had thirty (30) days to appeal the denial to the Board. Mr. Dessen bypassed the appeal to the Board and filed an action for declaratory judgment in the Court of Common Pleas. The Board filed preliminary objections. On 5/19/15, the CCP sustained the Board's preliminary objections and dismissed the complaint without prejudice to allow Mr. Rosiji to file an appeal of the 3/3/15 denial with the Board. Mr. Dessen appealed to the Board by letter of May 20, 2015.

William Rubin made a motion to approve. Brian Albert seconded the motion.

**The motion to approve carried unanimously 7-0.**

**Case of Celestine S. Marks, Appeal of Pension Disqualification, Plan “Y”**

This case was **approved to permanently disqualify** from pension eligibility and retain pension contributions to pay court ordered fines and restitution at the Board meeting held on August 28, 2014. A hearing panel was held on October 14, 2015.

The hearing panel recommendations are as follows:

Ronald Stagliano:	Deny the application
Patricia Fitzgerald:	Deny
Paula Weiss, Esq.:	Denied-pension disqualification is upheld

Case Summary:

Celestine Marks was an employee of the City of Philadelphia Department of Parks and Recreation, originally hired as a seasonal employee in 1991 and finally working as an assistant recreation leader. Her last day in pay status was December 22, 2011, after attaining 14 years, 8 months and 2 days of credited service. She is not collecting any benefit at this time but would be eligible to receive \$1,010.00 upon reaching age 60.

Inspector General Amy Kurland requested that the Board consider disqualifying Ms. Marks from receiving a pension. She provided documentation concerning the conviction of Ms. Marks on counts of theft by failure to make required disposition of funds and theft by unlawful taking.

The Affidavit of Probable Cause reflected that Ms. Marks set up an account through the Tustin Recreation Center and diverted funds from that account for her personal use.

On August 11, 2014, Ellen Berkowitz, Deputy City Solicitor, opined that Ms. Marks' crimes trigger the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employee Pension Forfeiture Act and that she is disqualified from pension eligibility.

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

**The motion to deny the appeal of the pension disqualification carried unanimously 7-0.**

**NEW BUSINESS**

**Sick Leave Conversion**

Mr. Stagliano stated that an issue came up and the Federal Order of Police (FOP) was notified by the City that beginning January 1, 2016 the Internal Revenue Service (IRS) is going to tax the conversion of sick leave for additional healthcare. He wanted the Board to be aware of this, as well as the Board of Pensions Counseling staff.

Mr. Bielli explained that currently certain employees have the ability to convert sick leave for additional health and welfare benefits in retirement. Up until now, it has not been taxed but as the IRS letter points out because you have the ability to take that payment in the form of a lump sum, it is considered constructive receipt which is taxable and will be effective in January, 2016.

Concerning the Counselors, when people arrive here for retirement they already have the conversion letter from their Human Resources department and should have already been advised of this issue. The counselors will also advise them in January that the conversion is subject to taxes.

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

- Clifton Gunderson is nearing the completion of their annual audit.
- One Philly is in the next phase of pre-testing. They will be adding a couple more people to periodically work with Teresa Gray to test business processes and the application of Code sections. It is moving along well.
  - a. **Litigation Summary** – Ms. Berkowitz stated there are a couple cases in Common Pleas Court which are awaiting a response and a couple cases waiting to file a record.

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

The meeting adjourned at 9:27 AM.