

**CITY OF PHILADELPHIA  
BOARD OF PENSIONS AND RETIREMENT  
Meeting of June 25, 2015**

**MINUTES**

On June 25, 2015, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:05 in the Board's Conference Room.

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

**Also Attending:**  
Francis Bielli - Board of Pensions  
Mark Murphy – One Philly Project  
Jo Rosenberger Altman, Katharine Janoski, Law Department  
Ellen Berkowitz – Law Department  
Brad Woolworth, Chris DiFusco, Investment Unit  
Dan Falkowski, Lavonia Jenkins - Investment Unit  
Dominique Cherry – Investment Unit  
Kristyn Bair, Aubrey Hassan – Investment Unit  
Steve Nesbitt – Cliffwater  
Mark Johnson - Cliffwater  
Pam McCue – Financial Investment News  
Marilyn Howarth – Risk Management  
Barry Scott – Risk Management

Ms. Weiss stated that the first order of business was the consideration of the Minutes of May 27, 2015.

Brian Albert made a motion to approve the Minutes of May 27, 2015. Ronald Stagliano seconded the motion.

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

**CONSIDERATION OF (150) PENSION APPLICATIONS AND (68) WITHDRAWAL APPLICATIONS**

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

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

**APPLICATION FOR SERVICE-CONNECTED DISABILITY BENEFITS**

**Case of Virgen M. Baez, Application for Service-Connected Disability Benefits Plan "B"**

This is an application submitted by Virgen Baez, former police officer, for Service-Connected Disability benefits under Pension Plan "B".

According to Ms. Baez, on January 28, 2010 while approaching a red light, she was rear-ended on the right passenger side causing injuries to her shoulder, neck, and back.

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

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

**Case of Lewis Boyer, Application for Service-Connected Disability Benefits – Plan "B"**

This is an application submitted by Lewis Boyer, former police officer for Service-Connected Disability benefits under Pension Plan "B".

According to Mr. Boyer on November 30, 2011 he was instructing PAL members in basketball when he tripped and injured his knee.

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

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

**Case of Anna Crosby, Application for Service-Connected Disability Benefits – Plan "B"**

This is an application submitted by Anna Crosby, former police officer for Service-Connected Disability benefits under Pension Plan "B".

According to Ms. Crosby, on November 6, 2012, she was walking a "beat" at 1200 Market Street when she felt a sharp pain in her right foot.

Brian Albert made a motion to deny. Patricia Fitzgerald seconded the motion.  
The motion to deny failed 3-5.

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

**The motion to approve carried 5-3.**

**Case of Frank Pavgouzas, Application for Service-Connected Disability Benefits – Plan “B”**

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

According to Mr. Pavgouzas on October 6, 2009, while attempting to arrest a robbery suspect a struggle ensued. Mr. Pavgouzas states he struck his head on the ground and began to bleed profusely from the impact. His other complaints involve pain to his shoulder and groin area.

Ronald Stagliano made a motion to approve. Andrew Thomas seconded the motion.

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

**Case of Oliver Burke, Application for Service-Connected Disability Benefits Plan “Y”**

This is an application submitted by Oliver Burke, former Streets Department laborer, for Service-Connected Disability benefits under Pension Plan “Y”.

According to Mr. Burke, on July 20, 2012 while lifting a couch from the curb, he tripped and fell injuring his shoulder, leg, and knee. Mr. Burke states that on January 9, 2013 he stepped onto a defective trash-truck step which collapsed causing him to strike his knees on the vehicle and ground.

Brian Albert made a motion to deny. Patricia Fitzgerald seconded the motion.  
The motion to deny failed 3-5.

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

**The motion to approve carried 5-3.**

**Case of Margo A. Weems, Application for Service-Connected Disability Benefits Plan “Y”**

This is an application submitted by Margo Weems, former youth detention counselor supervisor with the Department of Human Services, for Service-Connected Disability benefits under Pension Plan “Y”.

According to Ms. Weems, on February 14, 2011 she was involved in an altercation with an upset resident and staff. Ms. Weems states, while she was attempting to restrain the resident her left arm and hand was pinned against a wall. During this clash another resident came out of his room, banging her arm and hand into another wall while she restrained him.

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

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

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

This is an application submitted by Victoria Zou, former correctional officer for Service-Connected Disability benefits under Pension Plan “Y”.

According to Ms. Zou, on July 22, 2013 she was violently attacked while assisting a co-worker restrain a hostile and combative inmate.

Carol Stukes-Baylor made a motion to approve. Andrew Thomas seconded the motion.

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

**Case of Johnny Yue, Application for Service-Connected Disability Benefits – Plan “B”**

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

According to Mr. Yue, on August 27, 2011 while handcuffed to a “drug crazed” suspect his left wrist was injured.

Ronald Stagliano made a motion to approve. Andrew Thomas seconded the motion.

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

**OLD BUSINESS**

**Case of Derrick Riley, Application for Service-Connected Disability Benefits – Plan “B”**

This case was denied at the Board meeting held on March 26, 2015. A hearing panel was held on June 3, 2015.

The hearing panel recommendations are as follows:

Paula Weiss, Esq.:	Deny – Records show that disability is due to degenerative disease
Andrew Thomas:	Deny – No supporting medical documentation
Patricia Fitzgerald:	Deny – No medical documentation to support that current disability is due to work injury

**Case Summary:**

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

According to Mr. Riley on March 6, 2008 he struck the back of his head on the top cross beam of the driver's side door jamb of his patrol car. He complained of pain in his neck, shoulder, and upper back to his family physician on March 12, 2008.

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

**The motion to deny carried 4-1-3.**

**Case of Jerry Chandler; Request to be Re-billed, Without Interest, for his Prior Military Leave of Absence Without Pay from 3/1/03 Through 4/4/04, Plan Y**

This case was denied at the Board meeting held on October 22, 2014. A hearing panel was held on March 11, 2015.

The hearing panel recommendations are as follows:

Andrew Thomas:	Approve
Brian Albert:	Deny – Although employee expressed confusion over military stipend it was clear no pension deduction was taken. He also could have asked if he was unsure if that time counted towards his pension.
Albert L. D'Attilio:	Deny

**Case Summary:**

Mr. Chandler was granted a military leave of absence from 3/1/03 through 4/4/04. On 9/9/04, a bill for his pension contributions due for the above leave was forwarded to his address of record, was not returned by the postal service and expired 12/20/07. We did not receive Mr. Chandler's response to that bill. On 9/23/14, Mr. Chandler requested to be re-billed for the above period, without interest. On 9/29/14, his request was administratively denied. On 10/14/14, we received his timely appeal.

Carol Stukes-Baylor made a motion to approve. Andrew Thomas seconded the motion.

**The motion to approve carried 5-3.**

**Case of Jesse Hughes, Application for Service-Connected Disability benefits– Pension Plan "Y"**

This case was denied at the Board meeting held on January 22, 2015. A hearing panel was held on May 13, 2015.

The hearing panel recommendations are as follows:

Paula Weiss, Esq:	Deny - no evidence or testimony to support a due solely finding
Brian Albert:	Deny - not solely due
Ronald Stagliano:	Deny - he can apply for his service pension

**Case Summary:**

This is an application submitted by Jesse Hughes, former heavy equipment operator, for Service-Connected Disability benefits under Pension Plan "Y".

According to Mr. Hughes he was standing behind a safety barricade when a car came through the barricade and struck his lower legs. The driver of the vehicle continued forward and struck him a second time causing Mr. Hughes to land on the hood. The driver carried him in this position about 10 feet before another employee was able to get the driver's attention, forcing him to stop.

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

**The motion to deny carried 5-0-3.**

**Case of Warren G. Watson, Application for Service-Connected Disability Benefits-Plan Y**

This case was **denied** at the Board meeting held on March 26, 2015. A hearing panel was held on June 3, 2015.

The hearing panel recommendations are as follows:

Paula Weiss, Esq.:	Deny – Specialist reports conclude injury is resolved.
Andrew Thomas:	Approve – Dr. Allon indicates totally disabled. Dr. Knox indicates partially disabled
Patricia Fitzgerald:	Deny

**Case History:**

This is an application submitted by Warren Watson, former laborer, for Service-Connected Disability benefits under Pension Plan "Y".

According to Mr. Watson, on March 8, 2012 while collecting trash he stepped off of a high curb onto a flattened two-liter bottle; his feet slipped and he fell landing on his elbow, shoulder, hip, and thigh. He also states that the left side of his head was struck.

Carol Stukes-Baylor made a motion to approve. Andrew Thomas seconded the motion.

**The motion to approve carried 5-0-3.**

**Case of Gary Curtis, Request to Change Survivorship Option – Plan Y**

This case was deferred to a hearing panel at the Board meeting held December 4, 2014. A hearing panel was held June 3, 2015.

The Board recommendations are as follows:

Patricia Fitzgerald:	Deny
Andrew Thomas:	Deny
Paula Weiss, Esq.:	Deny

**Case History:**

This is a request by Gary Curtis to change his survivorship option from 2 to 1.

Gary Curtis, a Construction Codes Specialist for the Department of Licenses and Inspections, was hired on August 1, 1994 and was separated from city service on September 11, 2007. On November 9, 2007, Dr. George T. Hayes, Medical Director of the City Employee Medical Services Unit, determined that Mr. Curtis was permanently and totally disabled.

On January 2, 2008, Barbara Curtis, wife of Gary Curtis, applied for Ordinary Disability Retirement benefits on behalf of her husband who was unable to apply. However, she took away the "Memorandum of Understanding" and the "Election of Survivorship Option and Survivor Designation" forms for Mr. Curtis to sign himself. These two completed forms were received by the Board on January 16, 2008. Option 2 was selected, Barbara Curtis was named, and these forms are signed Gary Curtis.

On September 4, 2014, the Board of Pensions received a letter from Gary Curtis saying his wife forged his name on the survivorship option documents. He asked the Board to change his survivorship option. On September 10, 2014 an administrative denial was mailed to Mr. Curtis. On October 9, 2014 the Board received an appeal from Mr. Curtis asking that his option be changed to option 1.

Ms. Pankey asked if the Board would have asked for a Power of Attorney (POA) in 2007 based on Dr. Hayes letter and determination.

Ms. Stukes-Baylor stated that her concern is that his wife shouldn't benefit financially from being his POA and she was allowed to take the papers home.

Mr. Bielli explained that he was found physically incapacitated of his work duties. It doesn't matter who is benefiting from the POA and there is no evidence that Mr. Curtis was not able to enter into a contract or any agreement. His application would not have been stopped because of Dr. Hayes report. He wasn't found to be legally incompetent.

Ms. Weiss added that he didn't respond or come to any scheduled hearings.

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

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

**Case of Valorie Rodgers-Rice, Request to change Survivorship Option, Plan Y**

This case was denied at the Board meeting held on August 28, 2014. A hearing panel was held on March 11, 2015.

The hearing panel recommendations are as follows:

Andrew Thomas:	Approve
Brian Albert:	Deny - Irrevocable decision on beneficiary, cannot change just because initial application was denied
Albert L. D'Attilio:	Deny

**Case Summary:**

This is an application submitted by Valorie Rodgers-Rice to change her survivorship option from three (3) to one (1).

Valorie Rodgers-Rice was awarded a service-connected disability pension effective April 25, 2006. She selected survivorship option 3 and named her grandson. In a letter dated June 16, 2014 Ms. Rodgers-Rice requests to change her survivorship option from option 3 to 1 due to her current financial hardship and health. Her request was administratively denied by the Board. Ms. Rodgers-Rice submitted a written appeal dated July 11, 2014.

Brian Albert made a motion to deny. Patricia Fitzgerald seconded the motion. The motion to deny failed 3-5.

Carol Stukes- Baylor made a motion to approve. Andrew Thomas seconded the motion.

**The motion to approve carried 5-3.**

**Case of Michael Brown – Pension Disqualification, Plan "A"**

This case was **approved** at the Board meeting held on August 28, 2014 to **suspend pension benefits and permanently disqualify** Michael Brown for eligibility of pension benefits.

A hearing panel was held on June 3, 2015.

The hearing panel recommendations are as follows:

Paula Weiss, Esq.:	Deny applicant's appeal of Board's vote to suspend pension benefits and permanently disqualify pension eligibility
Andrew Thomas:	Deny the appeal
Patricia Fitzgerald:	Deny the appeal

**Case History:**

Michael J. Brown was hired on June 24, 2002 as a medic with the City of Philadelphia Fire Department. He was terminated effective May 27, 2013, after attaining 10 years, 11 months, and 4 days of credited service. He is receiving a pension benefit of \$488.86 per month.

Inspector General Amy Kurland requested that the Board consider disqualifying Mr. Brown from receiving a pension and provided documentation concerning Mr. Brown's guilty pleas for theft by unlawful taking and receiving stolen property. As reflected in the Affidavit of Probable Cause, Mr. Brown took \$825.00 from a patient he had transported to Episcopal Hospital.

On August 19, 2014, Ellen Berkowitz, Deputy City Solicitor, opined that Mr. Brown's crimes triggered the disqualification provisions of the Philadelphia Code.

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

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

Andrew Thomas made a motion to deny the appeal and approve the permanent disqualification and termination of Mr. Brown's pension eligibility. Brian Albert seconded the motion.

**The motion to deny the appeal and approve the permanent disqualification and termination of Michael Brown's pension eligibility carried unanimously 8-0.**

**Case of Mia Bangura, Application to apply for Service-Connected Disability benefits beyond the one-year deadline**

This case was **deferred** to a hearing panel at the Board meeting held on January 22, 2015. A hearing panel was held on May 13, 2015.

The hearing panel recommendations are as follows:

Paula Weiss, Esq.:	Deny - Petitioner was represented by counsel and didn't respond to letters and phone calls with the information for her
Brian Albert:	Deny - Her attorney failed to represent her adequately and advise her of deadline
Ronald Stagliano:	Approve the application

**Case History:**

This is a request by Mia Bangura, former Police Officer to make application for Service Connected Disability benefits beyond the one year deadline under Pension Plan "B".

Mia Bangura separated employment effective December 12, 2012. On September 24, 2014 Ms. Bangura submitted a letter requesting to make application for a Service Connected Disability beyond the one year deadline.

On September 25, 2014 an administrative denial was mailed to Ms. Bangura. On October 20, 2014 an appeal to the Board's administrative denial was submitted by Mulvey, Flanagan & Budney, P.C. on behalf of Mia Banguar.

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

**The motion to approve carried 5-3.**

**Case of Ruth Slaughter, Application for Service-Connected Disability Benefits Plan "J"**

This case was **tabled** at the May 27, 2015 Board meeting for additional medical documentation or doctor's reports, which were received on June 2, 2015.

This is an application submitted by Ruth Slaughter, former cook with the Department of Corrections, for Service-Connected Disability benefits under Pension Plan "J".

According to Ms. Slaughter, she has worked as a cook in a standing position for over 20 years and does not provide a specific date of injury. She states that problems developed in both knees.

Carol Stukes-Baylor made a motion to approve. Andrew Thomas seconded the motion.

**The motion to approve carried 5-3.**

**NEW BUSINESS**

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

- The state auditor is finishing up and should be done shortly.
- There was a conference call with the Governor's Taskforce on Municipal Pensions which was an initial discussion concerning the Fund. Everyone on the call including the Finance Director spelled out the steps that this Board and the City have been taking and to try and strengthen the pension fund.

- Cheiron was the only respondent to the RFP for actuarial services. A few other firms asked questions but did not respond so the Board will proceed with Cheiron.

**Dr. Marilyn Howard and Barry Scott**

Ms. Weiss thanked Dr. Howarth and Mr. Scott for coming and addressing some questions from the Board.

Dr. Howarth began by stating the process is going very well and they are caught up with reports. She takes her responsibility seriously to review the records and make a determination on the extent of the illness and whether or not it is permanent and work related.

Ms. Pankey stated that the Board receives expressions from members about not being physically examined when they appear before Dr. Howarth. She asked if there is any time Dr. Howarth feels that an exam is warranted but did not perform it because it isn't part of her requirement.

Mr. Scott stated that Risk Management's position is that the record review maintains an equal level for every applicant. There is no fair way to administer physical exams unless it is done for everyone. An exam would also require additional time and clinical space.

Dr. Howarth explained when she was hired it was for clinical record review only. In terms of consistency it should be one way or the other, it wouldn't be right to pick and choose who to examine.

Dr. Howarth stated that as a doctor, one of her tools is physical examination but there are so many examinations in the chart that she is confident relying on the sum total and analyzing them together. She explained that she doesn't make a determination as to what reports the Board receives. She reviews the list of panel doctor reports, IME's, and specialty doctor reports. It is rare if there aren't at least the opinions of one or two other doctors who have been actively treating the applicant.

Mr. Rubin asked Dr. Howarth what the process is for getting the files.

Dr. Howarth explained that when the request comes from the BOP it is sent to AmeriHealth Casualty. Within 14 days they produce an entire medical file. AmeriHealth incorporates them into an electronic file and it is then transmitted to Dr. Howarth. A paper file is also produced. The applicants have to see the Workers' Compensation doctors as part of the disability claim and to care for their injury but can go to their own doctor as well. There is a request for every worker who has a work injury for other records from outside sources.

Mr. Rubin asked Dr. Howarth if she could explain how a pre-existing condition should render someone not capable of receiving a SCD or why other pre-existing conditions do allow it.

Mr. Bielli stated that part of that question is why the statute says "due solely" which is a legislative question.

Mr. Scott stated that they have been trying to assure that in providing medical evaluation and record review that we are doing so in the context of the legal requirements regarding the solely due definition. The doctor makes her medical determination with regard to the impact of whatever is in the medical history on the disability itself and its relationship with the injury.

Dr. Howard explained that her determination as to whether someone's current disability is solely due to the injury causes her to take into consideration what the extent of the current injury is versus the extent of pre-existing underlying degeneration.

The Board discussed degeneration and how an injury may or may not affect a person's ability to continue to work.

Dr. Howarth said that in some cases where there is mild degeneration and a substantial injury there could be a rapid progression of degeneration caused by the injury so it would be solely due. She looks at prior injuries and employment records that are contained in the system. She does not take into consideration vacation or sick time.

Mr. Rubin stated that applicants that have accumulated 15-20 days of sick time would show that any type of degeneration was not affecting their job if they're not using their time.

Dr. Howarth stated that every applicant is invited to an interview. In the course of the interview Ms. Rembert is present and explains the implication of what it discussed and the process of secondary employment. They are also informed of the Board's application process and the opportunity to be examined by two doctors if her determination is not due solely.

**FYI**

**Litigation Summary** – Ms. Berkowitz stated that the Supreme Court denied the Bryant-El case (Application for Survivorship benefits as common-law spouse).

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

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