

**CITY OF PHILADELPHIA
BOARD OF PENSIONS AND RETIREMENT
Meeting of March 22, 2012**

MINUTES

On March 22, 2012, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:10 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, Mark Murphy, Shamika Taliaferro – Board of Pensions
Christopher DiFusco - Law Department
Sumit Handa, Brad Woolworth – Board of Pensions, Investment Unit
Andrew Thomas – Fire Department
Catherine Lucey – Daily News
Chester Skaziak – Retiree
Wayne Pollack - Citizen
Will Greene

Paula Weiss stated that the first order of business was the consideration of the Minutes of February 23, 2012.

Brian Albert made a motion to approve the Minutes of February 23, 2012. Ronald Stagliano seconded the motion.

The motion to approve the Minutes of February 23, 2012 carried unanimously 8-0.

CONSIDERATION OF (119) PENSION APPLICATIONS AND (45) WITHDRAWAL APPLICATIONS

John Reilly made a motion to approve. Brian Albert seconded the motion.

The motion to approve carried unanimously 8-0.

APPLICATIONS FOR SERVICE-CONNECTED DISABILITY BENEFITS**Case of Denise McMichael, Application for Service-Connected Disability Benefits – Plan “B”**

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

Ms. McMichael sustained injuries to her shoulder, neck, arm and hand while working returning from dropping off a missing persons report. The date of injury is January 20, 2009.

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

The motion to approve carried unanimously 8-0.

Case of Jihad Ali, Application for Service-Connected Disability Benefits – Plan “D”

This is an “*administrative application*” of Jihad Ali, former Sergeant, Police Department, for Service-Connected Disability Benefits in Plan “D”.

Mr. Ali sustained the injury while working when the suspect he was transporting got free and jumped onto his back injuring his lower back and neck. His date of injury is January 23, 2001.

Hilary Cornell made a motion to deny. Celia O’Leary seconded the motion.

The motion to deny carried unanimously 8-0.

Case of William Hackett, Application for Service-Connected Disability Benefits – Plan “D”

This is an application by William Hackett, former Police Officer, Police Department, for Service-Connected Disability benefits in Plan “D”.

Mr. Hackett sustained an injury to his lower back when he slipped on ice leaving work, in the parking lot. His date of injury is February 16, 2010.

Mr. Stagliano stated that the report says that Mr. Hackett is receiving Workers’ Compensation, which isn’t correct. He wants to table the case to insure that all the information is accurate.

Ronald Stagliano made a motion to table. Hilary Cornell seconded the motion.

The motion to table the case carried unanimously 8-0.

Case of Michael Cangelosi, Application for Service-Connected Disability Benefits – Plan “J”

This is an “*administrative application*” of Michael Cangelosi, former Electrician, Department of Public Property, for Service-Connected Disability Benefits in Plan “J”.

Mr. Cangelosi sustained his injury while working when he was moving some equipment and strained his back. The date of injury is August 22, 2004.

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

The motion to deny carried unanimously 8-0.

Case of Edwin Figueroa, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Edwin Figueroa, former Correctional Officer, Prisons Department, for Service-Connected Disability Benefits in Plan “Y”.

Mr. Figueroa sustained the injury while working when he lost visual of his left eye. His date of injury is August 10, 2005.

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

The motion to approve carried unanimously 8-0.

Case of Daniel Harrison, Application for Service-Connected Disability Benefits – Plan “Y”

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

Mr. Harrison sustained his injuries to his knees and lower back while working on various dates when he was blowing leaves, walking to his truck and pulling a can onto his truck. The dates of injuries include November 20, 1996, October 14, 2004 and May 12, 2011.

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

The motion to approve carried unanimously 5-3.

Case of Charlotte Hedgebeth, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Charlotte Hedgebeth, former Librarian, Free Library Department, for Service-Connected Disability Benefits in Plan “Y”.

Ms. Hedgebeth sustained injuries to her knee and hands while working when she was knocked to the ground while overseeing the school yard. The date of injury is June 2, 2008.

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

The motion to deny carried 7-0-1.

Case of Baynaamin Rashid, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Baynaamin Rashid, former Bridge Maintenance Worker, Streets Department, for Service-Connected Disability Benefits in Plan “Y”.

Mr. Rashid sustained damage to his eye while working when he was laying equipment on the table and the equipment hit him in the left eye. His date of injury is July 19, 2006.

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

The motion to deny carried 4-0-4.

Case of Elwyn Ward, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Elwyn Ward, former Labor Crew Sub-Chief, License & Inspection Unit, for Service-Connected Disability Benefits in Plan “Y”.

Mr. Ward sustained injuries to his foot and ankle when he fell leaving his vehicle, in the parking lot. His date of injury is September 18, 2008.

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

The vote tied 4-4. The Chair voted to deny. The motion to approve fails 4-5.

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

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

Mr. Wheeler sustained an injury to his lower back while working when he was using the jackhammer. The date of injury is August 24, 2010.

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

The motion to approve carried unanimously 8-0.

APPLICATION FOR SURVIVORSHIP BENEFITS**Case of Michael P. Whelihan, Deceased, Application for Survivorship Benefits – Plan D**

This is an application by Judith C. Whelihan for survivorship benefits in Plan D.

Michael P. Whelihan, a Police Officer with the Police Department, retired on March 12, 1983. Mr. Whelihan died on September 25, 2011. Submitted is a copy of the death certificate.

At the time of his retirement, Mr. Whelihan chose survivorship option 4.

Judith C. Whelihan is applying to have the Board of Pensions recognize her 35 year marriage with Mr. Whelihan. The couple was married on October 25, 1958. Their divorce was finalized in May, 1994. Attached is a copy of the marriage certificate and divorce decree.

In a letter to the Board of Pensions and Retirement, Eileen M. Heflin, Mr. and Mrs. Whelihan's daughter, states that her mother is entitled to survivorship benefits under Option 4 as they were married more than two full years prior to his death. She attached a copy of pages from the Plan 67 Retirement Booklet regarding beneficiaries. However, that section is in regards to Active Employees, not retirees.

If approved, Mrs. Whelihan would be eligible to receive a \$309.87 monthly survivorship benefit.

Carol Stukes made a motion to deny. Celia O'Leary seconded the motion.

The motion to deny carried unanimously 8-0.

APPLICATION FOR SURVIVORSHIP BENEFITS AS COMMON LAW SPOUSE

Case of Francis Finnegan, Deceased, Application for Survivorship Benefits as Common-Law Spouse – Plan D

This is an application by Kathleen Finnegan, as common-law spouse for survivorship benefits in Plan D.

Francis Finnegan, former police officer died on September 1, 2011.

Francis Finnegan retired effective December 3, 1998. On December 4, 1998 Mr. Finnegan signed his retirement papers. He elected Option #4 naming Kathleen Carolan, spouse as his survivor. He also designated Kathleen Carolan, spouse as his life insurance beneficiary dated December 4, 1998. Currently on file with the Board is a copy of his application for dental, optical and prescription coverage of a common law spouse from Fraternal Order of Police.

On January 4, 2012 the Board received a statement from Kathleen Finnegan. She stated they signed a lease together as man and wife in 1982 (copy submitted). Mrs. Finnegan stated neither one had prior marriages nor did either one have children. Mrs. Finnegan also submitted tax returns, beneficiary and life insurance forms, and statements from friends and family who knew them as man and wife.

If approved, Mrs. Finnegan would receive a lifetime monthly benefit of \$1,536.86.

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

The motion to approve carried 7-0-1.

PENSION DISQUALIFICATION

Case of Kevin Workman - Pension Disqualification and Termination of Benefits, Plan D

Kevin Workman was hired by the City of Philadelphia's Police Department on November 6, 1989. After attaining twenty-one years, ten months, and twenty-five days of credited service, Mr. Workman separated effective October 11, 2011. His contributions to the Pension Fund total \$64,309.02.

On February 17, 2012, Inspector General Amy Kurland wrote to Executive Director Francis Bielli, and provided documentation concerning the convictions of Mr. Workman on three counts including receiving stolen property, obstructing administration of law or other government function, and official oppression.

Mr. Workman's crimes involved stealing from people he was arresting.

On March 12, 2012, Christopher R. DiFusco, Divisional Deputy City Solicitor, opined the crimes committed by Mr. Workman trigger the forfeiture and disqualification provisions of the Public Employee Pension Forfeiture Act and the Philadelphia Code. Therefore, based on the above-mentioned crimes, Mr. Workman is disqualified from pension eligibility.

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

- Whether Mr. Workman should be permanently disqualified and terminated from pension eligibility.
- The Board's Obligation to Satisfy Outstanding Claims Against Mr. Workman

Harvey Rice made a motion to terminate and permanently disqualify Mr. Workman from pension eligibility and retain contributions to satisfy any outstanding claims and restitution. Hilary Cornell seconded the motion.

The motion to terminate and permanently disqualify from pension eligibility and retain contributions to satisfy any outstanding claims and restitution carried unanimously 8-0.

OLD BUSINESS

Case of Michael Durkin, Application for Service-Connected Disability Benefits – Plan “B”

This case was **denied** at the March 24, 2011 Board Meeting. A Hearing Panel was held on November 9, 2011.

The Hearing Panel votes are as follows:

Mr. James Leonard: Recommend denial.

Mr. John Reilly: Recommend approval. Grant the petitioner, Michael Durkin, his application for a service-connected disability pension.

Mr. Harvey Rice: Recommend denial.

The history of the case is as follows:

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

Mr. Durkin sustained the injury while responding to an emergency call in his police vehicle; he was involved in an accident and sustained injured to his shoulder on May 25, 2007.

Hilary Cornell made a motion to deny. Celia O’Leary seconded the motion.

The motion to deny carried 4-0-4.

Case of Marlise Lewis, Application for Service-Connected Disability Benefits – Plan “B”

This case was **denied** at the April 28, 2011 Board Meeting. A Hearing Panel was held on December 7, 2011.

The Hearing Panel votes are as follows:

Mr. James Leonard:	Recommend denial.
Ms. Veronica Pankey:	Recommend denial.
Ms. Paula Weiss:	Recommend denial.
	Applicant did not meet burden of proof to substantiate injuries and disability were “due solely”.

The history of the case is as follows:

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

Ms. Lewis sustained injuries to her legs, hip, shoulder, upper arm and back while working when she was hit from behind in her police vehicle. The nature of Ms. Lewis’s disability is chronic pain in her legs, hip, shoulder, upper arm and back. The date of her injury is October 27, 2006.

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

The motion to deny carried 5-0-3.

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

This case was **tabled** at the September 27, 2011 and August 25, 2011 Board Meetings at the request of Vice-Chair Ronald Stagliano.

The history of the case is as follows:

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.

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

The motion to approve carried 5-3.

Case of Christina Williams, Application for Service-Connected Disability Benefits – Plan “B”

This case was **denied** at the December 8, 2011 Board Meeting. A Hearing Panel was held on January 18, 2012.

The Hearing Panel votes are as follows:

Mr. James Leonard: Recommend denial

Ms. Celia O’Leary: Recommend denial. Deny the application for service connected disability benefits. Ms. Williams was returned to full duty, with no restrictions, after an Independent Medical Evaluation.

Ms. Carol Stukes: Recommend approval. I am in agreement with Dr. Neil Cohen’s original opinion that states the employees’ injury is directly related to the work altercation of June 5, 2009.

The history of the case is as follows:

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

Ms. Williams sustained injuries to her neck and back while attempting to place handcuffs on a disorderly suspect. Her date of injury is June 5, 2009.

Celia O’Leary made a motion to deny. Brian Albert seconded the motion. The motion to deny failed 3-5.

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

The motion to approve carried 5-3.

Case of Walter Helinsky-Pension Disqualification, Plan “J”

This case was **approved to suspend, permanently disqualify and terminate pension eligibility** at the September 27, 2011 Board Meeting. A Hearing Panel was held on February 29, 2012.

The Hearing Panel votes are as follows:

Mr. Brian Albert: Recommend denial.

Mr. James Leonard: Recommend denial.

Mr. John Reilly: Recommend denial. Deny the petitioner, Walter Helinsky, his request to reinstate his pension benefits.

The history of the case is as follows:

Walter Helinsky was hired with the City of Philadelphia on October 16, 1967. After attaining 31 years, 11 months and 15 days of credited service, Mr. Helinsky retired effective April 6, 2002 from the Department of Police Department. He is receiving a Service/DROP Retirement Pension Benefit at this time.

On July 11, 2011, Inspector General, Amy Kurland wrote a letter, copied Executive Director Francis Bielli and provided documentation concerning the conviction of Walter Helinsky on one (1) count involving the HOBBS Act including of Involuntary Deviate Sexual Intercourse, one (1) count of Endangering the Welfare of Children and one (1) count of one count of Aggravated Indecent Assault.

Mr. Helinsky worked as a City employee with the Police Department where he engaged in indecent contact with another person, not his spouse or caused the other person to have indecent contact with him. For the above-mentioned crime, Mr. Helinsky was found guilty on all counts, as outlined in the agreement and attached to this memorandum.

On September 13, 2011, Joshua Stein, Deputy City Solicitor, opined the crimes committed by Mr. Helinsky trigger the forfeiture and disqualification provisions of the Philadelphia Code and the Public Employees Pension Forfeiture Act. Therefore, based on the above-mentioned crime, Mr. Helinsky is disqualified from pension eligibility.

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

- Whether Mr. Helinsky's benefit be immediately suspended, and
- Whether Walter Helinsky should be permanently disqualified and terminated from pension eligibility, and
- Whether Mr. Helinsky'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 September 13, 2011.
2. Request from Inspector General Amy Kurland dated July 11, 2011
3. Judgment and Conviction Order dated July 7, 2011.

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

The motion to deny the appeal of the approval of the pension disqualification carried unanimously 8-0.

Case of Raymond Johnson, Application for Service-Connected Disability Benefits – Plan “Y”

This case was **denied** at the October 27, 2011 Board Meeting. A Hearing Panel was held on February 8, 2012.

The Hearing Panel votes are as follows:

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| Ms. Hilary Cornell: | Recommend denial. Applicants’ application is not supported by the medical record. In the alternative, applicant waived his pension right to apply for service connected disability pension as a condition of his workers’ compensation settlement. |
| Mr. Harvey Rice: | Recommend denial. Medical documented and opinions do not support granting a service connected disability. In addition, claimant waived his right to file for service connected disability. |
| Mr. Ronald Stagliano: | Recommend denial. Deny the application based on the medical evidence. |

The history of the case is as follows:

This is an application by Raymond Johnson, former Semi Skilled Laborer, Commerce Department, for Service-Connected Disability Benefits in Plan “Y”.

Mr. Johnson sustained injuries to his back, knees and neck when his truck was involved in an accident with another vehicle. His date of injury is August 31, 2008.

Hilary Cornell made a motion to deny. Celia O’Leary seconded the motion.

The motion to deny carried 5-0-3.

Case of Sherman Washington - Pension Disqualification and Termination of Benefits, Plan “Y”

This case was **approved to suspend and permanently disqualify and terminate pension benefits** at the August 25, 2011 Board Meeting. A Hearing Panel was held on November 16, 2011.

The Hearing Panel votes are as follows:

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| Ms. Celia O’Leary: | Recommend denial. |
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Ms. Carol Stukes: Recommend approval. Approve the appeal to receive his pension benefits and contributions. I am in agreement with the court records that stated and establish that Mr. Washington's crime did not occur in the course of his employment as a probation officer for juveniles.

Ms. Paula Weiss: Recommend denial. Deny the appeal.

The history of the case is as follows:

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.

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

The vote tied 4-4. The Chair voted to deny. The motion to deny the appeal carried 5-4.

Ms. Stukes stated for the record that she believed it was made clear in the transcript that the crime was not committed during the course of business. The Court and the District Attorney (DA) all recognize this, as it is stated in the transcripts several times and during the trial. She questioned why the Law Department and the DA made such an agreement because the judge clearly said the crime wasn’t committed during the course of his employment. She stated that Mr. Stein also agreed before he left.

Mr. DiFusco stated that Mr. Stein prepared an opinion which said he felt it met the standard for disqualification. He thought his reading of the transcript was different. The Judge questioned and indicated that he was under the impression that the crime did occur during the scope of Mr. Washington’s employment. The DA gave little response and said they weren’t there to argue that point. Mr. Washington will likely pursue an appeal and if the Court of Common Pleas reverses their opinion then he will receive his pension.

Ms. Stukes asked Mr. DiFusco if he had another transcript other than what she had because that transcript was not presented at the hearing and Mr. Stein did not say that at the hearing.

Case of Kathryn M. Durkin, Application for Service-Connected Disability Benefits – Plan “B”

This case was **denied** at the June 2, 2011 Board Meeting. A Hearing Panel was held on January 18, 2012.

The Hearing Panel votes are as follows:

Mr. James Leonard: Recommend denial. All medical opinions concluded standard not met.

Ms. Celia O’Leary: Recommend denial. Medical testimony indicates that the disability is not due solely to the injury.

Ms. Carol Stukes: Recommend approval. The injuries received by the employee are work related.

The history of the case is as follows:

At the Board Meeting on April 29, 2011, the case was approved for **reconsideration**. This case was denied at the March 18, 2010 Board Meeting. A Hearing Panel was held on March 30, 2011. At the hearing, it was determined that Dr. Korevaar’s report of April 22, 2009 was based on erroneous information of the applicant. All members of the hearing panel recommended reconsideration. The report was sent to Dr. Weinerman, the co-medical director on this case and he has submitted an amended report dated May 18, 2011.

The history of the case is as follows:

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

The nature of Ms. Durkin’s disability is limited mobility due to injuries of the hand, wrist, chest area, shoulder and back. Her date of injury is October 21, 2006.

Hilary Cornell made a motion to deny. Celia O’Leary seconded the motion.

The vote tied 4-4. The Chair voted to deny. Motion to deny carried 5-4.

NEW BUSINESS

Executive Director’s Report - Mr. Bielli stated that responses to the Request for Proposal (RFP) for the Trustee Election were received from True Ballot and AAA. Mr. Rice, Mr. Albert, Ms. Weiss and Mr. Bielli volunteered to sit on the sub-committee to review the RFP’s.

Mr. Bielli informed the Board that the final Actuarial Report was available and would be provided to them that day. Both Ms. Stukes and Mr. Stagliano inquired about the Vice-Chair position and Mr. Bielli said he will send out the Board Rules to everyone.

Litigation Summary – Mr. DiFusco stated there weren’t any litigation issues other than the appeal for the Rosemary DiLacqua case.

Celia O’Leary made a motion to adjourn. Harvey Rice seconded the motion. The meeting adjourned at 9:27 a.m.