

**CITY OF PHILADELPHIA  
BOARD OF PENSIONS AND RETIREMENT  
Meeting of June 27, 2012**

**MINUTES**

On June 27, 2012, 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  
                              Harvey Rice  
                              Brian Albert  
                              Celia O'Leary  
                              Carol Stukes  
                              Anne Kelly King  
                              Ronald Stagliano  
                              John Reilly  
                              Veronica Pankey  
                              James Leonard

Also Attending:       Francis Bielli – Board of Pensions  
                              Mark Murphy, Shamika Taliaferro, Joauna Riley – Board of Pensions  
                              Christopher DiFusco - Law Department  
                              Katherine Mastrobuoni – Law Department  
                              Sumit Handa, John Foulkes - Board of Pensions, Investment Unit  
                              Andrew Thomas – Fire Department  
                              Chester Skaziak – Retired firefighter  
                              Wayne Pollack - Citizen

Paula Weiss stated that the first order of business was the consideration of the Minutes of May 24, 2012.

Ronald Stagliano made a motion to approve the Minutes of April 26, 2012. John Reilly seconded the motion.

**The motion to approve the Minutes of May 24, 2012 carried unanimously 8-0.**

**CONSIDERATION OF (142) PENSION APPLICATIONS AND (74) WITHDRAWAL APPLICATIONS**

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

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

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

### **Case of Joseph Seeger, Application for Service-Connected Disability Benefits – Plan “A”**

This is an application by Joseph Seeger, former Firefighter, Fire Department, for Service-Connected Disability Benefits in Plan “A”.

Mr. Seeger sustained the injury on April 20, 2011, while working when he was trapped on the third floor of a building and injured his eye.

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

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

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

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

Ms. Tygh sustained injuries to her ankle while on duty and responding to an “Assist Officer” call, when she fell off of a ledge attempting to disperse a disorderly crowd. Her date of injury is December 2, 2007.

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

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

### **Case of Manuel Gonzalez, Jr., Application for Service-Connected Disability Benefits – Plan “A”**

This is an application by Manuel Gonzalez, Jr., former Fire Fighter, Fire Department, for Service-Connected Disability Benefits in Plan “A”.

Mr. Gonzalez sustained the injury after fighting a fire and returning equipment back to truck; he slipped in a ditch and injured his left ankle. His date of injury is July 9, 2005.

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

**The motion to deny carried 5-2-1.**

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

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

Shawn Watkins sustained the injury while attempting to arrest a combative offender and injured his right shoulder. In a separate incident he was attempting to make another arrest with a combative offender when he injured his right hand. His date of injury is December 1, 2009.

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

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

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

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

Mr. Zimmerman sustained the injury on duty while responding to a priority radio assignment, when he was involved in a head-on vehicular collision where he sustained head injuries. His date of injury is December 9, 2007.

Ronald Stagliano made a motion to send directly to a hearing panel. Harvey Rice seconded the motion.

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

**Case of Eduardo Fonseca, Application for Service-Connected Disability Benefits – Plan “J”**

This is an application by Eduardo Fonseca, former Correctional Officer, Prisons Department, for Service-Connected Disability Benefits in Plan “J”.

Mr. Fonseca sustained a lower back injury while on duty when he removed the back seat of a van to make room for testing materials. His date of injury is April 18, 2001.

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

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

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

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

Ms. McGonigle sustained the injury on duty while she was exiting the locker room and ascending a pair of stairs, when she fell and bent her fingers backwards and injured her left knee. Her date of injury is December 12, 2007.

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

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

**APPEAL OF DROP DENIAL**

**Kathleen R. De Crescio, Appeal of DROP Denial-Plan J**

Ms. DeCrescio submitted an application for DROP on March 30, 2012.

Under the current Pension Code, an Employee had to have at least 10 years of credited service and be of Minimum Retirement Age (Plan J = Age 55) as of December 13, 2011 to qualify for Old DROP. Based on her date of birth, Ms. DeCrescio attained age 55 as of June 2012. (She is not covered under the Stipulation between DC 33 and 47.)

For an Employee that does not qualify under Old DROP, they must wait until the second anniversary of the date the Employee attains their Minimum Retirement Age.

Since Ms. DeCrescio did not qualify under Old DROP, she was denied since she must wait until her second anniversary of her Minimum Retirement Age (age 57) to qualify under New DROP.

A letter was sent to Ms. DeCrescio on April 11, 2012 advising of her denial.

On May 10, 2012, the Board received Ms. DeCrescio’s appeal stating as a civil service employee under the J Plan, it is her right to retire at age 55.

Ms. Stukes asked for clarification of her job title and Department.

Mr. Murphy responded that she works in the Recreation Department as an Executive Assistant and her job classification is non-represented.

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

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

## **APPEAL OF ADMINISTRATIVE DENIAL OF SURVIVORSHIP BENEFITS**

### **Case of William Scott, Appeal of Administrative Denial of Survivorship Benefits – Plan J**

This is an appeal by Barbara Thornton-Scott, widow of William Scott, deceased, of the administrative denial of her application for survivorship benefits under Option 4. William Scott, a former Painter with the department of Public Property, retired effective September 7, 1984 and selected survivorship Option 4. On his final Change of Beneficiary Designation form available, dated December 14, 1979 he lists Dorothy M. Scott, wife, as his beneficiary. On his City Life Insurance form dated September 28, 1984, he named Dorothy M. Scott, wife, as his direct beneficiary.

William L. Scott, Sr. and Dorothy Mae Ketterer Scott were divorced on August 24, 2001. Mr. Scott died April 6, 2012. His widow, Barbara Thornton-Scott, applied for survivorship benefits under Option 4. The marriage certificate for William L. Scott and Barbara A. Thornton lists a marriage date of October 17, 2003. In a letter dated May 11, 2012, Mrs. Scott was informed by staff that she did not qualify for survivorship benefits under Option 4 since she married Mr. Scott after his date of retirement where a minimum of two (2) years prior to the date of retirement of September 7, 1984 is required.

Mrs. Scott responded to staff with a letter dated May 12, 2012 requesting an appeal of the decision regarding her application for survivorship benefits. Pension Program Administrator Yvonne Hobbs forwarded a letter to Mrs. Scott dated May 17, 2012 administratively denying her request, citing Mr. Scott's prior marriage which was valid at the time of his retirement and was terminated on August 24, 2001. She also cited the provisions of section 22-306(1) of the pension ordinance which state that a surviving spouse would receive one half of the member's retirement benefit, without reduction, provided that they were married at least **two (2) years** before retirement or the date on which a separated member became eligible to apply for retirement benefits.

Mrs. Scott forwarded a letter dated May 22, 2012 appealing the administrative denial of her application.

If approved, Barbara Thornton-Scott would be eligible for a lifetime monthly benefit in the amount of \$590.16.

Carol Stukes made a motion to deny. Brian Albert seconded the motion.

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

## OLD BUSINESS

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

This case was **approved to disqualify and terminate pension benefits and retain pension contributions for court-ordered restitution** at the August 25, 2011 Board Meeting. A Hearing Panel was held on May 16, 2012.

The Hearing Panel votes are as follows:

- |                      |  |
|----------------------|--|
| Ms. Hilary Cornell:  | Recommend denial. Applicant's appeal to her disqualification must be denied. Her guilty plea to child endangerment falls squarely into the Disqualification provisions set forth in §22-1302 of the Code for malfeasance in office. To the extent that the applicant seeks return of her contributions, she is so entitled upon proffer of evidence that confirms satisfaction of court ordered restitution. |
| Ms. Veronica Pankey: | Recommend denial – uphold the Board's decision on 8/25/11. Applicant only would be reimbursed contributions minus court fees. Applicant paid court fees.   |
| Mr. Harvey Rice:     | Recommend denial. Approve disqualification.  |

The history of the case is as follows:

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 cc'd a copy to 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.

Harvey Rice made a motion to deny. Brian Albert seconded the motion.

**The motion to deny Ms. Sommerer's appeal of pension disqualification carried unanimously 8-0.**

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

This case was **denied** at the December 8, 2011 Board Meeting. A Hearing Panel was held on May 16, 2012.

The Hearing Panel votes are as follows:

Mr. James Leonard:	Recommend approval.
Ms. Veronica Pankey:	Recommend approval. Approve for SCD – due solely to work injury sustained 2/23/10.
Mr. Harvey Rice:	Recommend approval.

The history of the case is as follows:

This is an application by Bruce Wiley, former Pre-Trial Warrant Investigator, First Judicial District, for Service-Connected Disability Benefits in Plan “Y”.

Mr. Wiley sustained severe injuries to his back and legs while on an arrest call when his patrol vehicle was rear ended, spun out of control, and landed on the opposite side of the road. His date of injury is February 23, 2010.

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

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

### Fiduciary Insurance

Mr. Reilly stated that the Board previously talked about having fiduciary insurance for members of the Board and said that with all the things that are going on in the financial world he would like to revisit this issue. Mr. Reilly provided the Board with information in their folders.

Ms. Weiss, Mr. Stagliano and Mr. Leonard volunteered to form a sub-committee to look at the information and report back to the Board.

## **NEW BUSINESS**

### **Executive Director's Report**

- Mr. Bielli stated that he received the preliminary list from the Department of Revenue for the tax delinquent offsets. He advised the Board trustees to contact Mr. Murphy if they want to check the list for any of their members, in order to work with them to make payment arrangements before an offset is placed.
- The new GASB Standards were approved June 25, 2012. They are GASB 67 and 68 and relate to accounting and financial reporting rules separately. The new standards will likely result in how our pension liability is measured. Cheiron is analyzing the potential effect of the changes on our Plan in particular, and will brief the Board within the next couple of months with follow ups, if necessary. The effective date of the GASB 67 (Accounting) is June, 2013 and 68 (Financial) is June, 2014. Mr. Kent sent a 4-5 page summary to Mr. Bielli which will be forwarded to the Board. The Law Department has also been looking into this in anticipation and whatever information and articles are acquired will be shared with the Board. Specific advice on our Plan will come from Mr. Kent.
- Mr. Bielli stated that replies concerning the Medical Panel in all the various aspects were received. Dr. Frieman was contacted on several occasions and didn't reply, however she called yesterday and expressed interest and apologized for missing the deadline. Since this has already been advertised as a RFP the MPO process can be used to bring her on board because the amount is well under \$30,000. The list will be used as a base of people but other doctors can be brought in under the MPO process as well. The sub-committee decided to go to Dr. Frieman because there was only one orthopedic doctor who responded. Every specialty is covered but the committee would like to fill the list out and recommended having at least one more orthopedic specialist. The sub-committee would welcome any recommendations for doctors from the Board.

Ms. Riley stated that the Medical Sub-Committee met and their recommendation was to ratify and approve the Fiscal Year 2013 Medical Panel as listed on the report which was distributed to the Board.



**a. Medical Panel List for FY 2013**

Harvey Rice made a motion to approve the Medical Panel list for FY 2013. Brian Albert seconded the motion.

The motion to approve the Medical Panel list for FY 2013 carried unanimously.

After an Executive Session was held it was determined that Dr. Michael McCoy should **not** be approved at this time but **tabled** instead.

**A motion was made and passed at the Investment Meeting to approve the Medical Panel list for FY 2013 with the exception of Dr. Michael McCoy. Veronica Pankey opposed the exclusion of Dr. McCoy.**

**FYI**

Litigation Summary – Mr. Hinerfeld said there are eight appeals pending for service-connected disability cases. With respect to all other outstanding matters, the Law Department was upheld in almost every case by the Court of Common Pleas, but some cases do remain outstanding.

Mr. Hummel lost his case in Common Pleas Court and appealed to the Commonwealth Court. He hasn't served the Board properly with the record but once he does they will file a response brief in the Commonwealth Court.

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

**The meeting adjourned at 9:13 a.m.**