

**CITY OF PHILADELPHIA
BOARD OF PENSIONS AND RETIREMENT
Meeting of June 27, 2013**

MINUTES

On June 27, 2013, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:04 a.m. in the Board's Conference Room.

Present: Paula Weiss
Harvey Rice
Brian Albert
Celia O'Leary
Carol Stukes-Baylor
Ronald Stagliano
Andrew Thomas
James Leonard

Also Attending: Francis Bielli – Board of Pensions
Mark Murphy – Board of Pensions
Sumit Handa – Investment Unit
Christopher DiFusco, Brad Woolworth – Investment Unit
Ellen Berkowitz, Katherine Mastrobuoni – Law Department
Charles Jones, Exec. Dir. Sinking Fund Commission
Will Greene, Sr. Vice President, Loop Capital Markets,
Jake Walthour - Cliffwater
Robert Valleio, Michael Bailks – Green Tree
Barry Scott, Risk Management
Dr. Marilyn Howarth, Medical Director

Paula Weiss stated that the first order of business was the consideration of the Minutes of May 22, 2013.

James Leonard made a motion to approve the Minutes of May 22, 2013. Harvey Rice seconded the motion.

The motion to approve the Minutes of May 22, 2013 carried 6-0-1.

CONSIDERATION OF (113) PENSION APPLICATIONS AND (83) WITHDRAWAL APPLICATIONS

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

The motion to approve carried unanimously 7-0.

APPLICATION FOR SERVICE-CONNECTED DISABILITY BENEFITS

Case of Kurt Volpe, Application for Service-Connected Disability Benefits – Plan “A”

This is an application by Kurt Volpe, former Fire Service Paramedic, Fire Department, for Service-Connected Disability Benefits in Plan “A”.

Mr. Volpe sustained an injury to his back and foot while working when he was lifting a patient onto a stretcher. His date of injury is October 6, 2011.

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

The motion to approve carried unanimously 7-0.

Case of Edward Corson, Application for Service-Connected Disability Benefits – Plan “B”

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

Mr. Corson sustained a shoulder injury while working when he slipped on some debris on the floor. In another incident, while Mr. Corson was attempting to open a defective cell door he reinjured his shoulder. His dates of injury are April 25, 2009 and January 5, 2012.

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

The motion to approve carried unanimously 7-0.

Case of Bridgette Paris, Application for Service-Connected Disability Benefits – Plan “B”

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

Ms. Paris sustained injuries to her lower back and hip while assisting a fellow officer with restraining an offender. During the struggle she was thrown against the walls and floor. Her date of injury is May 22, 2010.

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

The motion to deny carried 4-0-3.

Case of Diane Allen, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Diane Allen, former Crossing Guard, Police Department, for Service-Connected Disability Benefits in Plan “Y”.

Ms. Allen sustained the injury while on duty and attempting to keep a child from running into oncoming traffic and injured her leg. The nature of Ms. Allen’s disability is limited mobility due to a knee condition and the inability to stand or walk for long periods of time. Her dates of injury are May 14, 2002 and April 18, 2005.

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

The motion to deny carried 4-0-3.

Case of Eleanor Brown, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Eleanor Brown, former Correctional Officer, Police Department, for Service-Connected Disability Benefits in Plan “Y”.

Ms. Brown sustained a back injury during the search process of an inmate. The prisoner became aggressive and belligerent, and during the altercation Ms. Brown was pushed into a photo machine and fell on her back onto the floor. Her date of injury is February 25, 2010.

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

The motion to approve carried unanimously 7-0.

Case of Gloria Harris, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Gloria Harris, former Social Work Services Manager II, Department of Human Services, for Service-Connected Disability Benefits in Plan “Y”.

Ms. Harris sustained the hand/wrist injury over a period of time while executing clerical responsibilities within her job description, such as typing, filing, and writing. Her date of injury is July 14, 2008.

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

The motion to deny carried 4-1-2.

Case of Jamie Harris, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Jamie Harris, former Social Work Services Manager, Department of Human Services, for Service-Connected Disability Benefits in Plan “Y”.

Ms. Harris sustained the injury while on duty. She suffered body chills and fatigue due to exposure to the HVAC System in the work area. The nature of Ms. Harris’ disability is limited mobility due to kidney and heart failure. Her date of injury is October 17, 2007 and September 14, 2011.

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

The motion to deny carried 4-0-3.

Ms. Stukes Baylor stated that although the Board had already voted on this she had a question regarding the doctors’ reports because there were several injuries/conditions and the doctors’ decisions were split. She thought the case should go to a hearing panel.

Carol Stukes-Baylor made a motion for reconsideration to request sending the case to a hearing panel. Ronald Stagliano seconded the motion.

The vote for reconsideration was 4-3. The Chair voted to oppose which tied the vote 4-4. The motion for reconsideration fails. The motion to deny stands 4-0-3.

Case of Pamela Hameen, Application for Service-Connected Disability Benefits – Plan “Y”

This is an application by Pamela Hameen, former Correctional Sergeant, Prisons Department, for Service-Connected Disability Benefits in Plan “Y”.

Ms. Hameen sustained the injury while on duty when she was attacked from behind and thrown into a wall. She fell to the floor where she suffered a mild concussion, a broken finger, and back injury. Her date of injury is September 18, 2009.

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

The motion fails 3-4 and is denied.

APPLICATION FOR SURVIVORSHIP BENEFITS

Case of Wayne Race, Sr., Deceased, Application for Survivorship Benefits – Plan “D”

This is an application by Carol Anne Race for survivorship benefits in Plan D.

Wayne Race, Sr., a former Police Officer, retired on Service Connected Disability on August 31, 1987. Mr. Race died on January 14, 2013. At the time of his retirement, Mr. Race withdrew his pension contributions instead of choosing a survivorship option.

Carol Anne Race is applying for the \$250.00 widow's benefit. At the time of his retirement, Mr. Race was married to Doris Marie Race. Their divorce was not finalized until March 16, 1988. Mr. Race and Carol Anne Race were married on March 27, 1988.

Various documents, forms and letters were submitted to the Board for review.

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

The motion to deny carried unanimously 7-0.

OLD BUSINESS

Case of Tanya Stancil, Application for Service-Connected Disability Benefits – Plan “B”

This is an Administrative Application for Tanya Stancil, former Police Officer, Police Department, for Service-Connected Disability Benefits in Plan “B”.

The history of the case is as follows:

The issue was **deferred** to a hearing panel at the April 26, 2012 board meeting. Ms. Stancil appeared with her attorney, Michael Mulvey at a scheduled hearing on August 22, 2012. A letter was sent to the Board of Pensions dated August 23, 2012 stating that she wished to withdraw her *appeal* for Service-Connected Disability benefits. There has not been a decision from the board members regarding her application for Service-Connected Disability benefits.

Currently, Ms. Stancil is applying for an Optional Early retirement benefit. She received Workers' Compensation benefits from February 9, 2011 until September 22, 2012 and signed a Compromise and Release on October 2, 2012 to apply towards future Workers Compensation benefits. Accordingly, pursuant to Title 22-401 (3), the application for Optional Early retirement benefits must be treated as an Administrative Application for Service Connected Disability benefits.

Ms. Stancil sustained the injury while attempting to transport a patient in her patrol vehicle when a struggle ensued and she injured her left hand and wrist. Her date of injury is June 30, 2010.

There was a discussion on why this case is an administrative application to apply for service-connected disability benefits when Ms. Stancil wants to apply for an optional early benefit.

Mr. Murphy explained that the Board has to make a determination on the service-connected disability application first because Ms. Stancil withdrew her appeal at the scheduled hearing. The Code process requires that these steps are taken.

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

The motion to deny carried 4-0-3.

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

This case will be proceeding by way of the **SAMMONS** issue. This case was **deferred** to a hearing panel at the Board Meeting held on June 27, 2012. A hearing was held on May 8, 2013.

The Hearing Panel votes are as follows:

Ms. Celia O'Leary:	Recommend approval.
Ms. Veronica Pankey:	Recommend approval.
Ms. Paula Weiss:	Recommend approval.

The history of the case is as follows:

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

Mr. Zimmerman sustained an eye 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.

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

The motion to approve carried unanimously 7-0.

Case of Maria Rivera, Application for Ordinary Disability Benefits Plan “B”

This case was **denied** at the September 25, 2012 Board Meeting. A Hearing Panel was held on February 20, 2013.

The Hearing Panel votes are as follows:

Mr. James Leonard:	Recommend denial.
Ms. Veronica Pankey:	Recommend denial.
Mr. Harvey Rice:	Recommend denial.

The history of the case is as follows:

This case was **tabled** for 30 days at the August 30, 2012 Board Meeting at the request of Vice-Chair Ronald Stagliano.

This is an application by Maria Rivera, former Police Officer, Police Department, for Ordinary Disability Benefits in Plan “B”

Ms. Rivera sustained the injury while lifting a wheelchair bound resident and injured her neck and back. The nature of Ms. Rivera’s disability is limited mobility due to lower back pain and numbness in right leg. Her date of injury is July 11, 2007.

Ms. Rivera made application for a Service-Connected Disability benefit and was denied at the July 26, 2012 Board meeting.

Ms. Rivera submitted a request to apply for an Ordinary Disability benefit. Her request was administratively denied and Ms. Rivera has appealed the denial.

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

The motion to deny carried 4-1-2.

Case of Douglas M. Bellamy, Request to Apply for Service-Connected Disability Benefits Beyond One Year Deadline – Plan Y

This case was **denied** at the January 24, 2013 Board Meeting. A Hearing Panel was held on April 24, 2013.

The Hearing Panel votes are as follows:

Mr. Brian Albert: Recommend denial.

Mr. Harvey Rice: Recommend approval.
Department did not inform him of his right to file for service connected disability within one year of separation.

Mr. Ronald Stagliano: Recommend denial.

The history of the case is as follows:

This is a request by Douglas M. Bellamy, former Semi-skilled Laborer to make application for Service-Connected Disability benefits beyond the one year deadline in Plan Y.

Douglas M. Bellamy separated from the Water Department effective March 19, 2010. He was not vested and is not currently receiving a benefit from the Board of Pensions and Retirement. He applied for a Service Connected Disability on December 7, 2012.

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

The motion to deny carried 5-1-1.

Case of Voffee S. Jabateh, Request to Apply for Service-Connected Disability Benefits Beyond One Year Deadline – Plan “Y”

This case was **denied** at the March 28, 2013 Board Meeting. A Hearing Panel was held on June 5, 2013.

The Hearing Panel votes are as follows:

Mr. Brian Albert: Recommend denial.

Mr. James Leonard: Recommend denial.

Mr. Ronald Stagliano: Recommend denial.

The history of the case is as follows:

This is a request by Voffee S. Jabateh, former Social Worker 2, to make application for Service-Connected Disability benefits beyond the one year deadline in Plan Y.

Voffee S. Jabateh separated from the Department of Human Services effective October 1, 2005. Letters were mailed to him October 26, 2005 and March 27, 2006 advising him of his benefit options, including the one year deadline to make application for Service-Connected Disability benefits.

Mr. Jabateh applied for Optional Early pension benefits on January 7, 2013, which he is currently receiving. He then applied for Service-Connected Disability benefits on January 30, 2013.

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

The motion to deny carried unanimously 7-0.

Case of Marc Peoples, Application for Service-Connected Disability Benefits – Plan “Y”

This case was **denied** at the September 25, 2012 Board Meeting. A Hearing Panel was held on June 5, 2013.

The Hearing Panel votes are as follows:

Mr. Brian Albert: Recommend denial.
 Applicant is not disabled.

Mr. James Leonard: Recommend denial.
 Deny based on lack of medical evidence sufficient to meet burden
 of proof.

Mr. Ronald Stagliano: Recommend denial.

The history of the case is as follows:

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

Mr. Peoples sustained an injury to his back, while on duty, when an inmate attacked him. He twisted his back in his attempts to free himself and subdue the offender. His date of injury is October 24, 2010.

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

The motion to deny carried unanimously 7-0.

Case of Jose Santos, Application to apply for Ordinary Disability Benefits Beyond the One Year Deadline – Plan Y

This case was **denied** at the February 28, 2013 Board Meeting. A Hearing Panel was held on May 8, 2013.

The Hearing Panel votes are as follows:

Ms. Celia O’Leary:	Recommend approval.
Ms. Veronica Pankey:	Recommend approval.
Ms. Paula Weiss:	Recommend approval.

The history of the case is as follows:

This is a request by Jose Santos, former Airport Communications Center Operator, to make application for Ordinary Disability benefits beyond the one year deadline.

Mr. Santos was separated effective March 3, 2008. He made application for Ordinary Disability benefits on November 29, 2012.

A letter of Administrative denial dated January 14, 2012 was sent to Mr. Santos by Pension Program Administrator Yvonne Hobbs, who cited section 22-402(2)(d) of the Pension code, which refers to the 1-year time limit from date of separation for applying for Disability retirement benefits.

Mr. Santos forwarded a letter to Executive Director Francis X. Bielli dated January 18, 2012 appealing his denial and requesting a hearing on his issue.

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

The motion to approve carried unanimously 7-0.

NEW BUSINESS

Executive Director’s Report – Mr. Bielli stated that Bill No. 130307 also known as the Philadelphia Housing Development Corporation (PHDC) Contribution Bill was passed by City Council and is awaiting signature by the Mayor. The Bill will change the way PHDC contributes to the Pension Fund. Contributions, according to the Bill will be at the MMO level, not the normal cost level as the statute used to provide. The Bill doesn’t include the Philadelphia Parking Authority (PPA), as of now. There are only 48 employees affected at PHDC and the cost to the Fund will be a loss of approximately \$687,000. The PPA has 852 employees so the costs concerns associated with that are much greater.

Dr. Marilyn Howarth, Medical Director & Barry Scott, Risk Management

Ms. Weiss introduced Mr. Barry Scott, Risk Manager, and Dr. Marilyn Howarth, Medical Director, to the Board members to talk about the City's disability process.

Mr. Scott introduced Dr. Marilyn Howarth, the City's new Medical Director who replaced Dr. Wilhelmina Korevaar, who retired last Fall. Most recently, Dr. Howarth has worked in private practice in environmental and occupational medicine. She worked at the University of Pennsylvania in a clinical setting. She has also served at PECO working for employees and has come up through the field of occupational medicine so worker health and safety are something she has done her entire career. They feel fortunate to have her on board.

Dr. Howarth stated that it's a pleasure to meet the Board. She stated that she is an occupational medicine physician and her background is in internal medical so she has an understanding of adult health. Her training was at the Center for Disease Control as an Epidemic Intelligence Officer. She decided to only practice occupational environmental medicine so she has taken care of injured workers her whole career. Her career has been dedicated to working with employer and employees to make sure the care is as good as it possibly can be so that employees can achieve full recovery and resume productive work. She has taken care of police officers, firefighters and every other kind of industry. She feels her experience makes this position ideal for her in terms of interests and background.

Mr. Scott stated that unfortunately there was a lapse of time between Dr. Korevaar leaving and Dr. Howarth starting so they have been prioritizing her review of files and working on a backlog on their side. He apologized for the backlog and said they have been focused on moving these reviews as quickly as possible. He hopes they will be more current soon.

Mr. Bielli said that the Trustees may not know that on a regular basis the Board of Pensions works closely with Mr. Scott and his staff to insure that cases are moving at an acceptable pace. Mr. Scott has been attacking the backlog and it has been reduced significantly and he appreciates that. The standard in the Board's disability cases is a "due solely" standard. He asked Dr. Howarth if she needed any assistance in explaining that standard.

Dr. Howarth explained that she is used to reviewing medical records and a lot of different context and what factors play a role in any outcome. She felt she didn't need assistance but would be happy to hear additional comments.

Mr. Bielli explained that on an annual basis, all the doctors on the Medical Panel will receive contact from Ms. Reilly, and at times someone from the Law Department to explain the Code section on disabilities and workers' compensation.

Ms. Reilly asked if Dr. Howarth sees the employees and if that is stated in the report, as that was a previous concern the Trustees had with Dr. Korevaar.

Mr. Scott said that generally Dr. Howarth does not see the individuals and will not be doing medical examinations. These reviews are best viewed as being an intensive medical review, looking over the individual's entire medical history in order to make a determination with regard to the factors involved in the disabling condition. Whenever possible, these individuals would have an interview with the doctor where she shares with them a review of their file and answers any questions. There is another population who doesn't follow the typical P&P process and are usually away from the City, and although Dr. Howarth will do a medical review she will not see them or interview them.

Ms. Weiss stated they would like it to be clear at the onset of the medical report whether or not Dr. Howarth has seen the employee. Ms. Weiss thanked them both for coming.

Litigation Summary – Ms. Mastrobuoni stated that in the Wiggins case the appellant brief was due July 1, 2013, but the appellant just filed his brief yesterday so they are requesting a motion for extraordinary relief asking for a traditional 30 days to review and respond. The Stevens case was just appealed and they are waiting for the case order to see when the deadlines will be. The Walker case, which has been going on for 18 years, they are trying to get thrown out and dismissed with prejudice.

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

The motion to adjourn carried unanimously 7-0.