

**CITY OF PHILADELPHIA
BOARD OF PENSIONS AND RETIREMENT
Meeting of December 5, 2013**

MINUTES

On December 5, 2013, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:03 a.m. in the Board's Conference Room.

Present: Paula Weiss
Harvey Rice
Brian Albert
Albert D'Attilio
Carol Stukes-Baylor
Ronald Stagliano
Andrew Thomas
Veronica Pankey
James Leonard

Also Attending: Francis Bielli, Board of Pensions
Mark Murphy, Board of Pensions
Sumit Handa, Brad Woodworth, Chris DiFusco – Investment Unit
Jo Rosenberger-Altman, Law Department
Ellen Berkowitz, Katherine Mastrobuoni – Law Dept.
Steve Nesbitt, Jack Walthour - Cliffwater
Mondrell Moore - Earnest Partners
Will Greene – Capital Loop

Paula Weiss stated that the first order of business was the consideration of the Minutes of November 7, 2013.

Mr. Thomas stated that his recommendation on page 5, in the case of Coretta Avery should read **Dr. Katz**, not Dr. Katy. The correction to the Minutes was made.

Brian Albert made a motion to approve the Minutes of November 7, 2013. Harvey Rice seconded the motion.

The motion to approve the Minutes of November 7, 2013 carried unanimously 8-0.

CONSIDERATION OF (110) PENSION APPLICATIONS AND (69) 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 Margaret Otto, Application for Service-Connected Disability Benefits – Plan “D”

This is an application by Margaret Otto, former Police Corporal, Police Department, for Service-Connected Disability Benefits in Plan “D”.

According to Ms. Otto, she sustained the injury while working when she slipped going up the steps. She injured her left arm and left shoulder. Her date of injury is April 28, 2011.

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

The motion to approve carried unanimously 8-0.

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

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

According to Mr. Harris, he sustained the injury while working when he was picking up trash. He further stated that his disability is to his lower back and the date of his injury is April 7, 2012.

Brian Albert made a motion to deny. James Leonard seconded the motion.

The motion to deny carried 4-0-4.

APPLICATION FOR SURVIVORSHIP BENEFITS AS A COMMON LAW SPOUSE

Case of Joseph R. Cellini, Deceased, Application for Survivorship Benefits – Common Law, Plan “J”

This is an application by Joanne M. Cellini for survivorship benefits as the common law spouse of Joseph R. Cellini.

Joseph Cellini and Joanne E. Battles were married on April 22, 1993.

Joseph R. Cellini, former Automotive Shop Group Leader, retired January 24, 1992. Mr. Cellini elected survivorship option 4 naming Joanne E. Battles (CELLINI) fiancée and son, Carmen Cellini. Joanne E. Battles (CELLINI) was also named as his life insurance beneficiary. Joseph R. Cellini died August 11, 2013.

The Board reviewed letters, forms and affidavits that were submitted in support of Mrs. Cellini's application.

Mrs. Cellini has no further documents to support her common law relationship.

Brian Albert made a motion to deny. James Leonard seconded the motion.

The vote tied 4-4. The Chair voted to deny.

The motion to deny carried 5-4.

APPLICATION FOR SURVIVORSHIP BENEFITS AS COMMON LAW SPOUSE

Case of Francis J. Harkins, Deceased, Application for Survivorship Benefits – Common Law, Plan X

This is an application by Kathleen C. Harkins for survivorship benefits as the common law spouse of the late Francis J. Harkins. Mrs. Harkins wishes to have the Board of Pensions recognize her 13 year relationship with Mr. Harkins as a common law relationship. They were wed on January 25, 1990.

Francis J. Harkins, a former Firefighter, retired on May 26, 1991. At the time of his retirement, Mr. Harkins chose survivorship option 4 and named Kathleen C. Harkins as the beneficiary of his life insurance, relationship – wife. Mr. Harkins died on August 16, 2013.

Mr. Harkins' previous marriage to Jacqueline Kathleen Hellworth Harkins was dissolved by divorce on September 20, 1978.

The Board reviewed information from the file and documentation submitted by Mrs. Harkins supporting her common law claim.

Mr. Thomas stated that there is a letter from Ms. Gagliardi stating that she and her husband witnessed the common law ceremony of Kathleen and Francis Harkins on May 8, 1985.

Andrew Thomas made a motion to approve. Veronica Pankey seconded the motion.

The motion to approve carried 5-3.

OLD BUSINESS

Case of Robert L. Hayes , Deceased, Application for Survivorship Benefits on Behalf of a Medically Dependant Adult Child Plan “J”

This case was **tabled** at the September 26, 2013 Board meeting for further information regarding Robert L. Hayes, Jr.'s social security benefit. Attached is a letter from the Social Security Administration regarding his benefit.

The history of the case is as follows:

This is an application by Robert L. Hayes, Jr., son of Robert L. Hayes, to receive Survivorship benefits as a medically dependant adult child under Plan J.

Robert L. Hayes, Food Service Worker, died on May 15, 2006. He retired effective September 15, 1988.

Mr. Hayes chose Survivorship Option 4 when he retired. His Designation of Pension Beneficiary form is not in his file. However, his Group Life Insurance Beneficiary form is included. He named his wife, Marjorie Hayes, as his primary beneficiary and his son, Robert L. Hayes, Jr. as his contingent. Marjorie Hayes died November 6, 2004.

The Board reviewed the information submitted by Mr. Hayes.

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

The motion to approve carried 5-3

Case of George Sumner, Application to Purchase Pension Credit as a DROP Participant

This case was **denied** at the April 25, 2013 Board Meeting. A Hearing Panel was held on October 23, 2013.

The history of the case is as follows:

Mr. Sumner worked as a temp from 6/30/75-8/29/75; 12/29/75-5/28/76 and from 6/11/80-1/11/81. He was also a CETA employee from 11/9/76-3/31/80. There's a CETA application in his imaged file, dated 5/11/97, to purchase pension credit for his CETA service from 9/6/77-11/8/80. In a letter dated 9/19/97, Linda Donovan advised him that since he had been a contributing member since 11/9/96, it was not necessary for him to purchase pension credit for his CETA employment. Mr. Sumner entered DROP effective 1/4/10. Sometime thereafter, he learned that he had not received pension credit for his prior temporary employment. On 3/3/13, we received his application to purchase pension credit for his prior temporary employment. His

application was administratively denied pursuant to §22-310(5) of the Public Employees Retirement Code. His timely appeal of the above denial was received 4/11/13.

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

The motion to approve carried 5-3.

Case of Vanessa Brown, Application for Service-Connected Disability Benefits –Plan “B”

This is an application by Vanessa Brown, former Police Officer, Police Department, for Service-Connected Disability Benefits in Plan “B”. Her case was **deferred** to a hearing panel on January 24, 2013. Ms. Brown will be pursuing her case as a **SAMMONS** issue.

The history of the case is as follows:

According to Ms. Brown, she sustained the injury when she was involved in a car accident while on duty. She further states that her disability was caused by the injuries she suffered to her spine. Her date of injury is May 4, 2006.

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

The motion to approve carried 5-3.

NEW BUSINESS

Executive Director’s Report – Mr. Bielli stated that the audit is in the last stages. The City’s accountants have provided all of the information to the auditor and a report should be received soon.

Proposed changes to Regulations: Ellen Berkowitz stated that the Legislative Subcommittee approved some technical changes to Regulations 1 (Process for hearing panels) and 3 (Refund of Contributions) to make them consistent with the current version of the Code and current Board practice. In addition, they recommended rescinding Regulation 2 (Offset for earned income), Regulation 4 (Payment of contributions for prior overtime earnings) and Regulation 5 (Heroic Action) because amendments to the Code have rendered them obsolete.

Ms. Stukes-Baylor said she isn’t comfortable voting on Regulation 4 at this time and wants to make sure she is clear on this. She has had a problem receiving City emails and wants to see this in writing before voting on it. The Mayor has changed how Local 2186 is recognized, and at one time they didn’t have the right to claim overtime but now they do.

Mr. Bielli stated that if someone is not a police officer or fireman then overtime earnings are included and that is stated in the Code. The elimination of this regulation pertained to a group of employees that had prior overtime up to a certain time. It's not applicable anymore because the wording of the Code allows for overtime to be included in the average final compensation and the Code makes clear who gets overtime and who doesn't.

Mr. D'Attilio suggested tabling Regulation 4.

Harvey Rice made a motion to approve the changes to Regulations 1 and 3, rescind Regulations 2 and 5 and table Regulation 4. Brian Albert seconded the motion.

The motion to accept the changes to Regulations 1 and 3, Rescind Regulations 2 and 5 and Table Regulation 4 carried unanimously 8-0.

Mr. Bielli stated that the new Regulations will be posted on the Department's website.

Litigation Summary – Ms. Rosenberger Altman highlighted two cases listed on the Litigation Summary:

- 1) Walker vs. BOP (survivorship/ordinary death) – Ms. Mastrobuoni argued for the Board on two preliminary objections in Common Pleas Court and they are waiting for a ruling from Judge Tucker.
- 2) DiLacqua vs. BOP (pension disqualification) - The Court has scheduled a second oral argument, to be heard *en banc*, in Harrisburg, PA on December 11, 2013. The Court has asked the parties to argue on the issue of determining if crimes are substantially similar for purposes of the Pensions Forfeiture Act. They asked if the Courts inquiry ends after comparing elements of defense or should the Court look to the nature of the conduct underlying the conviction.

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

The meeting adjourned at 9:21 a.m.