

**CITY OF PHILADELPHIA
BOARD OF PENSIONS AND RETIREMENT
Meeting of February 22, 2017**

MINUTES

On February 22, 2017, Paula Weiss called the Regular Meeting of the Board of Pensions and Retirement to order at 9:30 a.m. in the Board's Conference Room.

Present: Paula Weiss
William Rubin
Brian Abernathy
Brian Albert
Carol Stukes-Baylor
Ronald Stagliano
Brian Coughlin
Veronica Pankey
David Magaldi

Also Attending: Francis Bielli - Board of Pensions
Shamika Taliaferro – Board of Pensions
Francois Dutchie, Ellen Berkowitz – Law Department
Jo Rosenberger Altman, Brendan O'Rourke – Law Department
Christopher DiFusco, Bernard Buckley – Investment Unit
James Cousounis– Investment Unit
Tyrone Jordon, Kristyn Bair – Investment Unit
Dominique Cherry, Eryn-Ashlie Bailey – Investment Unit
Michelle Davidson, Matthew Coyne – Torrey Cove
Kweku Obed, Dave Smith – Marquette
Eric Stevenson, Bina Kumar – Nationwide
Brett Warren, Bob Murray, Anu Patel, Ken Kent - Cheiron
Pam McCue – Financial Investment News
Andrew Thomas – Private citizen
Charles "Chuck" Callahan - JP Morgan

Ms. Weiss called the meeting to order and stated that the first order of business was the consideration of the Minutes of January 19, 2017.

Ronald Stagliano made a motion to approve the Minutes of January 19, 2017. William Rubin seconded the motion.

The motion to approve carried 7-0-1.

CONSIDERATION OF 42 PENSION APPLICATIONS AND 67 WITHDRAWAL APPLICATIONS

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

The motion to approve carried unanimously 8-0.

APPLICATION FOR SERVICE-CONNECTED DISABILITY BENEFITS

Case of David Erbele, Application for Service-Connected Disability Benefits – Plan B

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

According to Mr. Erbele, on October 7, 2008 while responding to a “person with a gun” call he suffered an injury. Mr. Erbele states that following a vehicular crash into a tree one of the suspects fled; he gave foot pursuit and tackled the suspect to the ground. Mr. Erbele states that he heard a “pop” from his knee and fell onto the ground after attempting to stand.

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

The motion to approve carried unanimously 8-0.

Case of Curtis Alexander, Application for Service-Connected Disability Benefits - Plan J

This is an application submitted by Curtis Alexander, former industrial process machinery mechanic with the Water Department for Service-Connected Disability benefits under Pension Plan “J”.

According to Mr. Alexander, on July 26, 2014 while he was working alongside his co-workers and group leader to install a replacement pump, he slipped and fell sustaining multiple injuries.

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

The motion to approve unanimously 8-0.

Case of Nelson Oliva, Application for Service-Connected Disability Benefits – Plan J

This is an application submitted by Nelson Oliva, former commercial and industrial fire inspector with the Department of Licenses and Inspection for Service-Connected Disability benefits under Pension Plan “J”.

According to Mr. Oliva, on or about February 12, 2014 while walking in a fire tower he states that he pulled his knee. Mr. Oliva states that the constant walking up and down the stairways of various fire towers from 1997 to 2015 contributed to his knee damage.

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

The motion to approve carried 5-3.

Case of Joseph L. Oliver, Application for Service-Connected Disability Benefits – Plan J

This is an application submitted by Joseph Oliver, former water distribution repair worker with the Water Department for Service-Connected Disability benefits under Pension Plan “J”.

According to Mr. Oliver, on or about July 5, 1984 he was crushed beneath a steel plate. Mr. Oliver further stated that he was involved in a car accident around 2009 and that for a period of 22 years he was exposed to asbestos at his worksite.

Brian Albert made a motion to deny. David Magaldi seconded the motion

The motion to deny carried 4-0-4.

Case of Vernice Coleman, Application for Service-Connected Disability Benefits - Plan Y

This is an application submitted by Vernice Coleman, former correctional officer with the Department of Corrections for Service-Connected Disability benefits under Pension Plan “Y”.

According to Ms. Coleman, on December 19, 2013 while walking in the kitchen area she tripped over a metal plate that was not screwed into place. Ms. Coleman states that she fell injuring both knees, hands, and wrists.

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

The motion to approve carried unanimously 8-0.

Case of Kevin Jones, Application for Service-Connected Disability Benefits - Plan “Y”

This is an application submitted by Kevin Jones, former semi-skilled laborer with the Water Department for Service-Connected Disability benefits under Pension Plan “Y”.

According to Mr. Jones, on November 5, 2013 while attempting to remove a chain saw from a tree he sustained injuries to his neck, shoulder, and upper back.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 4-0-4.

Case of Mary A. Laux, Application for Service-Connected Disability Benefits - Plan Y

This is an application submitted by Mary Laux, former correctional officer with the Department of Corrections for Service-Connected Disability benefits under Pension Plan “Y”.

According to Ms. Laux, on January 26, 2014 she was on yard patrol of the prison grounds when she slipped on some black ice. Ms. Laux states that her entire right leg was injured.

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

The motion to approve carried unanimously 8-0.

Case of Jeffrey Malkowski, Application for Service-Connected Disability Benefits – Plan Y

This is an application submitted by Jeffery Malkowski, former water field customer service representative with the Water Department for Service-Connected Disability benefits under Pension Plan “Y”.

According to Mr. Malkowski, on September 23, 2014 while installing a six-inch (6”) water meter he was struck in the elbow by a wedge causing injuries to his arm.

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

The motion to approve carried unanimously 8-0.

Case of Michael P. O’Mara, Application for Service-Connected Disability Benefits - Plan Y

This is an application submitted by Michael O’Mara, former maintenance mechanic with the First Judicial District Court for Service-Connected Disability benefits under Pension Plan “Y”.

According to Mr. O’Mara, on February 26, 2015 he was assigned to paint a public restroom when he slipped on some graffiti removal spray, which had been applied by another employee.

Mr. O’Mara states that his leg became jammed between the wall and bathroom stall while the rest of his body twisted, injuring his knee.

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

The motion to approve carried unanimously 8-0.

Case of Johnie E. Williams, Application for Service-Connected Disability Benefits - Plan Y

This is an application submitted by Johnie Williams, former water distribution repair worker with the Water Department for Service-Connected Disability benefits under Pension Plan "Y".

According to Mr. Williams, on or about January 24, 2015, while stripping a gearbox from a 16-inch valve he states that the gearbox fell to the floor and he sustained an injury to his back. Mr. Williams further states that a co-worker assisted him to his feet and transported him to the hospital for treatment.

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

The motion to approve carried 8-0.

Case of Diane Young, Application for Service-Connected Disability Benefits - Plan Y

This is an application submitted by Diane Young, former laborer with the Streets Department for Service-Connected Disability benefits under Pension Plan "Y".

According to Ms. Young, on October 27, 2014 while she was picking up a recycling bin she tripped over an uneven pavement and stumbled with the recycling bin in hand. Ms. Young states that she hurt her left side and experienced lower back pain and down the side of her leg.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 4-0-4.

Case of William L. Barnhardt, Application for Service-Connected Disability Benefits – Plan B

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

According to Mr. Barnhardt, on February 4, 2014 he was violently attacked by a robbery suspect, thrown to the ground and ultimately had to discharge his weapon to end the attack. Mr. Barnhardt states that following the fatal shooting he felt guilt, isolation, a loss of appetite, and difficulty sleeping.

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

The motion to approve carried unanimously 8-0.

APPLICATION FOR SURVIVORSHIP BENEFITS

Case of Ralph C. Burnett, Deceased, Application for Survivorship Benefits – Plan J

This is an application by Lewgeana Alston-Burnett for survivorship benefits in Plan J.

Ralph C. Burnett, a Semiskilled Laborer, retired from the Health Department effective April 25, 1992. He received a Service retirement until his death on October 9, 2015.

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

Lewgeana Alston-Burnett is applying to have the Board of Pensions recognize her over 30-year common-law relationship with Mr. Burnett prior to their marriage on June 14, 2015.

Brian Abernathy made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 4-2-2.

Case of Grady Gallman, Deceased, Application for Survivorship Benefits – Plan J

This is an application by Ida Mae Wilson-Gallman, as common-law widow of Grady Gallman for survivorship benefits in Plan J.

At the time of his application for retirement on May 3, 2005, Mr. Gallman elected survivorship option 4 and named Ida Mae Wilson-Gallman, relationship wife, as his pension and life insurance beneficiary.

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

The motion to approve carried unanimously 8-0.

Case of George Mitchell, Application for Survivorship benefits - Plan J

This is an application by Theodora J. Mitchell, widow of George Mitchell, for Common-Law Survivorship benefits under Survivorship Option #4.

George Mitchell, a former Water Treatment Plant Supervisor for the Water Department, retired from city service effective September 15, 1988.

George Mitchell and Theodora J. Garriest were married February 18, 2005. George Mitchell died on June 19, 2016.

At the time he retired from city service, he selected Survivorship Option #4, naming daughter Pamela Dixon as his survivor. Theodore Gareece was named as an emergency contact on Mr. Mitchell's appointment papers in 1980 and 1985.

At the time she contacted the Board of Pensions regarding application for survivorship benefits, Theodora Mitchell was advised by staff in a letter dated September 12, 2016 that since her marriage to Mr. Mitchell did not occur until after his date of retirement that she was ineligible for survivorship benefits.

Theodora Mitchell contacted the Board of Pensions in a notarized letter dated September 21, 2016 and stated that she and Mr. Mitchell had been in a Common-Law marriage dating back to January 1974 prior to legally marrying in 2005 and that George Mitchell was a father figure to her son Joel and assisted in raising him to adulthood.

In addition to the notarized letter, Theodora Mitchell included letters from her family and friends and her minister. Also included is a copy of George Mitchell's divorce decree from Olive D. Clark Mitchell, which became final effective November 20, 1974.

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

The motion to approve carried 5-3.

Mr. Bielli stated that the reason some of following cases were held was due to pending legislation to see what affect the legislation would have. There was no legislation passed for exempt or non-represented employees but at the time of these appeals that was not known. The legislation passed was only for District Council 33. If there is similar legislation passed for exempts and non-reps it would have no affect anyway. People will have the option to get out of Plan 10 and join Plan 16.

The following cases are all in Plan 10 currently. They all failed to make their choice to opt out of Plan 10. They all received notice, none of them came back as a bad address but they all responded to the letter that they had 30 days to appeal.

REQUEST TO OPT OUT OF PLAN 10 AFTER THE DEADLINE

Case of Albert Lee, Request to Opt Out of Plan 10 After the Deadline

This case was tabled at the June 23, 2016 Board Meeting.

Albert Lee was hired effective September 29, 2015.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to his home address on November 9, 2015 by certified and first class mail. The Board received a return receipt. Since Albert Lee did not return the form opting out of Plan 10 and electing Plan Y, he remained a member of Plan 10.

On May 3, 2016 Mr. Lee's request to have his pension plan changed to Plan Y was received. On May 4, 2016 an administrative denial was sent to his home address by certified and first class mail. Albert Lee's timely appeal was received on June 6, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Jibin George, Request to Opt Out of Plan 10 After the Deadline

This case was tabled at the August 25, 2016 Board Meeting.

Jibin George was hired effective June 15, 2015.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to his home address on July 17, 2015 by certified and first class mail. The Board received a return receipt. Since Jibin George did not return the form opting out of Plan 10 and electing Plan Y, he remained a member of Plan 10.

On June 7, 2016 Mr. George's request to have his pension plan changed to Plan Y was received. On June 8, 2016 an administrative denial was sent to his home address by certified and first class mail. Jibin George's timely appeal was received on July 8, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Gricelda Borja, Request to Opt Out of Plan 10 After the Deadline

Gricelda Borja was hired effective January 4, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to her home address on February 16, 2016 by certified and first class mail. The letter was not returned. Since Gricelda Borja did not return the form opting out of Plan 10 and electing Plan Y, she remained a member of Plan 10.

On September 15, 2016 Ms. Gricelda Borja's request to have her pension plan changed to Plan Y was received. On September 15, 2016 an administrative denial was sent to her home address by certified and first class mail. Gricelda Borja's timely appeal was received on October 14, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Thomas Burke, Request to Opt Out of Plan 10 After the Deadline

Thomas Burke was hired effective June 13, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to his home address on August 8, 2016 by certified and first class mail. The letter was not returned. Since Thomas Burke did not return the form opting out of Plan 10 and electing Plan Y, he remained a member of Plan 10.

On November 21, 2016 we received Thomas Burke's request to have his pension plan changed to Plan Y. On December 2, 2016 an administrative denial was sent to his home address by certified and first class mail. Thomas Burke's appeal was received on December 29, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Natalie Faragalli, Request to Opt Out of Plan 10 After the Deadline

Natalie Faragalli was hired effective July 6, 2015.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to her home address on August 6, 2015 by certified and first class mail. The Board received a return receipt.

Since Natalie Faragalli did not return the form opting out of Plan 10 and electing Plan Y, she remained a member of Plan 10.

On September 13, 2016 Ms. Faragalli's request to have her pension plan changed to Plan Y was received. On September 15, 2016 an administrative denial was sent to her home address by certified and first class mail. Natalie Faragalli's appeal was received on October 14, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Lindsey Gaydosh, Request to Opt Out of Plan 10 After the Deadline

Lindsey Gaydosh was hired effective June 17, 2013 as a temporary employee and separated effective August 27, 2015. She did not make pension contributions. She was rehired as a permanent employee effective March 15, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to her home address on May 6, 2016 by certified and first class mail. The letter was not returned. Since Lindsey Gaydosh did not return the form opting out of Plan 10 and electing Plan Y, she remained a member of Plan 10.

On January 10, 2017 we received Lindsey Gaydosh's request to have her pension plan changed to Plan Y. On January 11, 2017 an administrative denial was sent to her home address by certified and first class mail. Lindsey Gaydosh's appeal was received on January 30, 2017.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Karen Guss, Request to Opt Out of Plan 10 After the Deadline

Karen Guss was hired effective August 21, 2001 separated, withdrew her pension contributions and was rehired effective January 19, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to her home address on March 22, 2016 by certified and first class mail. The letter was not returned. Since Karen Guss did not return the form opting out of Plan 10 and electing Plan Y, she remained a member of Plan 10.

On January 4, 2017 we received Karen Guss' request to have her pension plan changed to Plan Y. On January 4, 2017 an administrative denial was sent to her home address by certified and first class mail. Karen Guss' timely appeal was received on January 30, 2017.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Elizabeth Hersh, Request to Opt Out of Plan 10 After the Deadline

Elizabeth Hersh was hired effective March 1, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to her home address on April 27, 2016 by certified and first class mail. The letter was not returned. Since Elizabeth Hersh did not return the form opting out of Plan 10 and electing Plan Y, she remained a member of Plan 10.

On December 20, 2016 we received Elizabeth Hersh's request to have her pension plan changed to Plan Y. On December 20, 2016 an administrative denial was sent to her home address by certified and first class mail. Elizabeth Hersh's timely appeal was received on June 6, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Iliyaas Muhammad, Request to Opt Out of Plan 10 After the Deadline

Iliyaas Muhammad was hired effective January 11, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to his home address on March 22, 2016 by certified and first class mail. The letter was not returned. Since Iliyaas Muhammad did not return the form opting out of Plan 10 and electing Plan Y, he remained a member of Plan 10.

On December 22, 2016 we received Iliyaas Muhammad's request to have his pension plan changed to Plan Y. On January 3, 2017 an administrative denial was sent to his home address by certified and first class mail. Iliyaas Muhammad's appeal was received on January 27, 2017.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

Case of Tyra Wilson, Request to Opt Out of Plan 10 After the Deadline

Tyra Wilson was hired effective April 4, 2016.

Plan 10 Opt Out forms and documents explaining the plan differences were sent to her home address on June 8, 2016 by certified and first class mail. The letter was not returned. Since Tyra Wilson did not return the form opting out of Plan 10 and electing Plan Y, she remained a member of Plan 10.

On September 26, 2016 we received Tyra Wilson's request to have her pension plan changed to Plan Y. On October 5, 2016 an administrative denial was sent to her home address by certified and first class mail. Tyra Wilson's timely appeal was received on October 31, 2016.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried 7-0-1.

PENSION DISQUALIFICATION

Case of Robert Otterson – Pension Disqualification, Plan “J”

Robert Otterson, Team Leader in the Auto Body Repair Team division of the Office of Fleet Management, was hired on June 12, 1989. He terminated on June 28, 2014 after vesting with 24 years, 11 months and 18 days of credited service. As a member of Plan J, he would be eligible for Optional Early Retirement at age 52 (2/26/2018) and full retirement at age 55 (2/26/2021). His monthly benefit if he retired early would be approximately \$3,382; his benefit if he waited until he was 55 would be approximately \$4,125. He has \$48,249.04 in contributions, which he has not withdrawn.

Inspector General Amy Kurland requested that the Board consider disqualifying Mr. Otterson from receiving a pension and provided documentation concerning Mr. Otterson's guilty pleas to multiple charges arising from his involvement in a scheme to direct Fleet Management business to American Collision, an auto body company owned by reputed mob leader Ronald Galati, Sr., and where Mr. Otterson's son worked. As set forth in court documents, Mr. Otterson, who was responsible for inspecting companies that provided repair services to Fleet Management, falsified documents concerning the equipment American Collision had at the time of the bid, recommended that they be awarded the bid, lied to the grand jury investigating the matter, and stole hundreds of thousands of dollars of equipment and material from Fleet Management.

On February 16, 2017, Ellen Berkowitz, Senior Attorney, opined that Mr. Otterson's crimes triggered the disqualification provisions of both the Public Employee Pension Forfeiture Act and the Philadelphia Retirement Code.

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

- Whether Mr. Otterson should be permanently disqualified from pension eligibility.
- Whether Mr. Otterson's contributions should be withheld and directed toward the \$100,738 restitution and funds he was ordered to pay the City.

Brian Albert made a motion to approve to permanently disqualify from pension eligibility and retain contributions for court ordered restitution. Ronald Stagliano seconded the motion.

The motion to approve to permanently disqualify from pension eligibility and retain contributions for court ordered restitution carried 7-0-1.

OLD BUSINESS

Case of Matthew Smith, Deceased, Application for Survivorship Benefits – Plan J

This case was tabled at the Board meeting held on January 19, 2017 at the request of trustee Bill Rubin for further information.

This is an application by Donna Satchell Smith for survivorship benefits in Plan J.

Matthew Smith, an Airport Operations Agent, retired effective January 2, 2008. He received a Service retirement until his death on July 28, 2012.

At the time of his Service retirement, Mr. Smith chose survivorship option 4 and named his daughter Kelly Johnson as his survivor. She was also named as his life insurance beneficiary.

Donna Satchell Smith is applying to have the Board of Pensions recognize her 5-year relationship with Mr. Smith prior to their marriage on October 8, 2008.

Brian Albert made a motion to deny. David Magaldi seconded the motion.

The motion to deny carried unanimously 8-0.

Case of Rosetta Baker, Application for Service-Connected Disability benefits beyond the one-year deadline under Pension Plan “J”

This case was deferred to a hearing panel at the Board meeting held on November 17, 2016. A hearing panel was held on Wednesday, January 18, 2017.

The hearing panel recommendations are as follows:

Ronald Stagliano:	Deny the application
William Rubin	Deny –past the one-year deadline
Brian Albert:	Deny

Case Summary:

This is a request by Rosetta Baker, former parking enforcement officer with the Philadelphia Parking Authority to submit an application for service-connected disability benefits beyond the one-year deadline under Pension Plan J.

Ms. Baker submitted an application for Service-Connected Disability benefits on March 2, 2016, and followed-up with a letter dated September 2, 2016 requesting to apply for benefits beyond the one-year deadline. The application was administratively denied because it was not submitted within the one-year deadline.

Stacey White, Pension Program Administrator, sent a letter of administrative denial to Ms. Baker citing section 22-309(a) of the Retirement Code which requires that an application for disability benefits be submitted to the Board within one-year of separation. Ms. White further stated that Ms. Baker’s application should have been submitted on or before May 25, 2007 for consideration.

October 11, 2016, Rosetta Baker sent a letter of appeal to the denial of her request. She states that the Philadelphia Parking Authority informed her that an appointment letter would be sent to her but she never received a letter. She further states that shortly after that time her father became sick and she became his caregiver.

William Rubin made a motion to deny. Brian Albert seconded the motion.

The motion to deny carried 5-3.

NEW BUSINESS

- **Executive Director's Report** - Mr. Bielli stated that the letters for people in District Council 33 that are mandatory Plan 16 participants who were in Plan 10 or Plan Y and hired after August 20, 2017 went out February 9 and 10, 2017. The optional letter for DC 33 folks is being reviewed by the Law Department.
- Mr. Bielli introduced Jim Cousounis, the new Chief Compliance Officer. He has extensive litigation experience and compliance experience and will be an asset to the Board.

FYI

- a. **Litigation Summary** – Ms. Rosenberger-Altman stated that neither party wanted oral argument in the Commonwealth Court appeal in the Tepper case (Pension Disqualification). The Board's certified record and Finding of Fact are due in the Gillis case (change of survivorship) in Common Pleas Court in early March.

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

The meeting adjourned at 9:45 a.m.