

Minutes 02/06/19
Approved 03/06/19

The Corrections Officer Retirement Board of Pima County, Arizona met in session on February 6, 2019. The meeting was held in the 1st floor conference room at 130 W. Congress, Tucson, AZ.

VOTING MEMBERS PRESENT: Keith Bagwell
Leo Duffner
John Fink
Michael Escobar
Mary Scott

VOTING MEMBERS ABSENT:

OTHERS PRESENT: David A. McEvoy, Board Attorney
Jaime Carpenter, CORP Board Secretary
Robin Benge, PSPRS Board Secretary

The meeting was called to order at 8:52 a.m. by Mr. Bagwell.

Item 1 on the agenda was a Roll Call. Attendance, as listed above.

Item 2 on the agenda was the Pledge of Allegiance.

Item 3 on the agenda was the approval of minutes from the board meeting held on 01/02/19. Mr. Escobar moved to approve the minutes as submitted. Ms. Scott seconded the motion and it carried unanimously.

Item 4 on the agenda was the Defined Contribution (DC) Plan New Membership forms, effective 01/10/19 for Daniel Armstrong Armenta, Hanna Baughman, Steven Bustamante, Chidiebere Chukwuneke (noted pre-existing condition), Tyler Cordin, Anthony Cubbon (noted pre-existing condition), Gabriel Cuestas, Daniela Garcia, Christian Hernandez, Joseph McKennon, Dominic Meza, Luis Ochoa and Rodolfo Villarreal. Ms. Scott moved to approve the membership forms listed in agenda item 4. Mr. Escobar seconded the motion and it carried unanimously.

Item 5 on the agenda was the Tier 2 Membership form for Ramon Villa-Esquer (prior service with CORP), effective 01/12/19 (no pre-existing conditions). Mr. Escobar moved to approve the membership form. Ms. Scott seconded the motion and it carried unanimously.

Item 6 on the agenda was the Application for Separation – Refund (CORP) for Alfonso Hernandez, Marco Durazo and James Page. Mr. Escobar moved to approve the applications. Ms. Scott seconded the motion and it carried unanimously.

Item 7 on the agenda was a read-in by the Board Secretary of the Nationwide DC Plan refund request for Rodolfo Villarreal.

Item 8 on the agenda was the discussion and possible action regarding medical re-evaluation of disability retiree Hancel Lopez-Navarro. The board reviewed the report submitted by Dr. Raymond Schumacher, dated January 24, 2019. A discussion followed regarding Dr. Schumacher's response to questions #1, #2 and #3 on pages 2 of 3 and 3 of 3 of his report.

Regarding question #1, which states, “Does Mr. Lopez-Navarro have a physical or mental condition, which [still] totally and permanently prevents him from performing a reasonable range of duties within his job classification?”; Mr. McEvoy reminded the board, that while the question posed came from the Local Board Retirement Manual for PSPRS & CORP (October 2018), it does not coincide with A.R.S. §38-881, which defines an accidental disability as, “A physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department.”

Regarding question #2, which states, “Do you feel that Mr. Lopez-Navarro’s disabling condition or injury was incurred in the performance of his duties as a Corrections Officer in Pima County?”; Mr. McEvoy again reviewed with the board the specific wording of A.R.S. §38-881, which reads in part, “...was incurred in the performance of the employee's duties and was the result of any of the following:

- (a) Physical contact with inmates, prisoners, parolees or persons on probation.
- (b) Responding to a confrontational situation with inmates, prisoners, parolees or persons on probation.
- (c) A job-related motor vehicle accident while on official business for the employee's employer. A job-related motor vehicle accident does not include an accident that occurs on the way to or from work. Persons found guilty of violating a personnel rule, a rule established by the employee's employer or a state or federal law in connection with a job-related motor vehicle accident do not meet the conditions for accidental disability.”

Regarding question #3, which states, “Does Mr. Lopez-Navarro’s disability result from a physical condition or injury that existed or occurred before the claimant's date of membership in the CORP?”

After a brief discussion, Mr. Duffner addressed question #1 stating that the board would apply the standard of “a reasonable range of duties within the employees job classification” until the requested legal opinion is rendered or there is a change in statute. Mr. McEvoy then suggested that PSPRS Plan members attend an upcoming CORP board meeting to address the board about the statutory standard in question #1 above regarding disability retirements and disability re-evaluations. The board members agreed and the secretary would provide notification to PSPRS for the next applicable meeting.

The Board secretary then addressed the concerns for questions #2 and #3 by reading the response to those questions from the original IME, dated 10/30/07 and follow-up IME, dated 06/24/13. Those reports stated in part, that the disabling incident occurred during the performance of his duties as a corrections officer and was the result of an altercation with an inmate. Additionally, as there was no medical evidence that the condition existed prior to his membership in the CORP. Based on those reports, the board approved his original application for a disability retirement on 11/04/07 and approved the continuance of his disability benefits on 07/03/13.

Mr. Duffner then moved to adopt the report from Dr. Raymond Schumacher, dated January 24, 2019, as findings of fact. Mr. Escobar seconded the motion and it carried unanimously. Based on the findings of fact, Mr. Duffner moved to continue payment of the disability benefits for Mr. Hancel Lopez-Navarro.

Item 9 on the agenda was the consideration of payment of the invoice from Dr. Raymond Schumacher for the independent medical re-evaluation of Mr. Hancel Lopez-Navarro. The secretary advised that the invoice amount was satisfactory. Mr. Duffner moved to approve payment of the invoice. Mr. Escobar seconded the motion and it carried unanimously.

Item 10 on the agenda was the Application for Normal Retirement for Demetrius Montanaro, effective 03/01/19 at age 62 with 17.16 years of service. Mr. Escobar moved to approve the application. Ms. Scott seconded the motion and it carried unanimously.

Item 11 on the agenda was the Application for Normal Retirement for Berlinda Cutbirth, effective 03/01/19 with 20.13 years of service. The secretary advised that Ms. Cutbirth had more leave without pay than initially calculated, causing her years of credited service to drop below 20 years, resulting in a change to her benefit calculation. The secretary wanted to review this and the subsequent options with Ms. Cutbirth prior to the board taking action on this item. The board agreed and the agenda item was tabled to a future meeting.

Item 12 on the agenda was the Application for Normal Retirement for John Roach, effective 03/01/19 with 18.74 years of service and 84 points. Mr. Escobar moved to approve the application. Ms. Scott seconded the motion and it carried unanimously.

Item 13 on the agenda was the retirement benefits for Mr. Andrew Wiley. The board secretary informed the board of the passing of Mr. Wiley and his spouse in January 2019. The secretary advised that she was not aware of a dependent child and that there was no money left on his account for a beneficiary payment.

Item 14 on the agenda was discussion and possible action regarding the process of selecting a board secretary. The board reviewed four memoranda of interest submitted after of the announcement was posted in the department bulletin. The board members discussed the various options available to them in replacing the current board secretary, to include the secretarial duties, workload, time commitment and salary. One of the memoranda of interest was from the PSPRS board secretary Ms. Robin Bengé. Mr. Bagwell expressed concern with having Ms. Bengé as the secretary for both boards, in the event that something should happen and having no coverage for the secretarial duties. A discussion followed with the pros and cons of having Ms. Bengé be the secretary for both boards. Ms. Carpenter stated that the workload for the CORP board is quite substantial and is a second job done outside of normal work hours. Mr. McEvoy discussed with the board the structure of the Tucson Police and Fire PSPRS boards and having joint meetings, which is possible since they have the same statutes. He stated that those boards recently hired someone to assist with the additional workload, resulting from the new Tier plans. Ms. Bengé then addressed the board. She reminded them that she is already familiar with the duties and responsibilities being the secretary for the PSPRS board and has a good working relationship with Central Payroll, Personnel and PSPRS staff. She also reminded the board that they have the Pima County Attorney's Office board secretary to fill-in if/when she was unavailable. Mr. Duffner suggested that the board select Ms. Bengé as the CORP board secretary but seek an additional person to assist Ms. Bengé and fill-in when needed. Mr. Fink expressed concern about having one secretary for both boards and that the current structure of having a different secretary for each board was working well for the board, the plan members and the employer. Mr. Escobar and Ms. Scott addressed their concerns about the various options, but both agreed with Mr. Duffner's suggestion. Mr. Duffner moved to select Ms. Bengé as the CORP board secretary and, a to-be-determined assistant, contingent upon the resignation of the current board secretary, Ms. Carpenter. Mr. Escobar seconded the motion. A roll-call vote followed, in favor of the motion; Mr. Bagwell: Yes; Mr. Duffner: Yes; Mr. Fink: No; Mr. Escobar: Yes and Mr. Scott: Yes. The board then directed the secretary to set up an interview with remaining individuals for the assistant secretary position with Mr. Escobar, Ms. Scott, Ms. Carpenter and Ms. Bengé conducting the interviews. Discussion and possible action on this item would be taken at the next scheduled board meeting.

Item 15 on the agenda was a review of pending legislation and discussion as needed. There was none.

Item 16 on the agenda was a review of correspondence with the Corrections Officer Retirement Plan. The board secretary reviewed the PSPRS Third Quarter Newsletter of 2019.

Item 17 on the agenda was other board business. Mr. McEvoy advised the board of a response he received from Mr. William R. Whittington of the Boyle, Pecharich, Cline, Whittington & Stallings, p.l.l.c., requesting a legal opinion as it pertains to A.R.S. §38-881. Mr. Whittington advised that his office did not have the time to undertake the research project requested and, therefore, declined to offer a legal opinion. Mr. Fink reiterated the importance of having PSPRS board members attend future disability retirement and re-evaluation hearings, to assist in their interpretation of statute.

Item 18 was a call to the public. There was none.

Thereafter, upon motion duly made, seconded and unanimously approved, the meeting adjourned at 10:07 a.m.

Jaime K. Carpenter, Secretary