

**MINUTES OF THE PUBLIC MEETING
PUBLIC SAFETY RETIREMENT BOARD
TOWN OF CHINO VALLEY**

**MONDAY, MARCH 26, 2018
3:00 P.M.**

The Public Safety Retirement Board of the Town of Chino Valley met for a Public Meeting in the Conference Room, located at 202 N. State Route 89, Chino Valley, Arizona, on Monday, March 26, 2018.

1) CALL TO ORDER

Chair Jack Miller called the meeting to order at 3:04 p.m.

2) ROLL CALL

Present: Chair Jack Miller; Board Member Vince Schaan; Board Member Dean Keller; Board Member Cheri Romley

Absent: Board Member Amy Chamberlin

Staff Present: Tiffany Resendez, Human Resource Analyst; Laura Kyriakakis, Human Resource Director; William Whittington, Legal Counsel

Chair Jack Miller called the meeting to order at 3:04 p.m.

3) APPROVAL OF MINUTES

4) CALL TO THE PUBLIC

Call to the Public is an opportunity for the public to address the Board concerning a subject that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 15 minutes per meeting. Board action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.

5) OLD BUSINESS

- a)** Board training and discussion regarding disability applications.

Legal Counsel William Whittington provided an overview of the packet to the Board Members:

- The informational packet would provide guidance to the Board Members during meetings.
- Rules Summary –Uniform Rules are provided by the State and can be customized by the Board.
- A Summary discussion of the Rule topics included the following:
 - Purpose and Scope of Procedure.
 - Meetings, Minutes and Decisions – Advise Board of Trustee of a decision within 20-days of taking action on claim; Minutes provided to the Board of Trustees within 20-days of every meeting; Files of each claimant must be maintained separate from personnel and

- department files.
- Pre-Membership physicals.
- Disability Deadline for Scheduling Hearings – Must be within 90-days of receipt of claim.
- Disability Benefit Applications – Independent Medical Exam (IME) must be performed by qualified doctors and the Boards decisions must be based on IME.
- Reexamination of Disability Recipients– After benefits are awarded, the Board can hold a yearly hearing to reevaluate and determine if recipient still qualifies for benefits.
- Re-Hearing – Can be requested by claimant or the State.
- General Provisions Applicable to All Hearings and Rehearing’s – Confidential medical records are discussed only in executive session unless waived by the claimant; The Presiding Officer may preclude repetitious, argumentative or irrelevant facts or questioning.
- Recording – the quality of the recording is important (audio and written). Mr. Whittington reviewed executive session types:
 1. (A.1) Personnel Matters – confidential and private information about the employee, employee can attend the meeting and the employee has access to the minutes.
 2. (A.2) Board discussion or consideration of confidential records – Employee does not have access to these minutes. The Board has access to all relevant medical records including IME for review and discussion prior to the public hearing. With employee signed release, the information can be discussed in public.
 3. (A.3) Legal advice - Employee does not have access to these minutes.
 4. (A.4) Board instructions to Attorney – The employee does not have access to these minutes. (A.4) is typically used when there is pending litigation or contracts.
- A Summary discussion of the Board Powers included:
 - Must meet twice a year.
 - Decide all questions of eligibility.
 - Prescribe procedures.
 - Make determination as to the right of any client.
 - Request and receive information as necessary.
 - Distribute information explaining the system.
 - Receive and review actuarial valuation.
 - Receive and review reports of financial condition.
 - Appoint medical board.
 - Issue Subpoena.
 - Sue and be sued.
 - Establish and adopt rules.
 - Adopt bylaws.
 - Appoint a recording secretary.
 - Approve rates for legal counsel and medical boards.
 - Issue directions to Board of Trustees concerning benefits.
 - Be indemnified for the assets of the employer for any judgements taken against Board Members.
- A Summary discussion of the Public Safety Medical Evaluations included:
 1. Accidental Disability - needs to have occurred when in the system and on the job.
 - The local board forwards the application, medical release, authorization for prior treatments and medical records to appointed physician to address the following:
 - Does claimant have a physical or mental condition which totally and permanently prevents the employee from performing a reasonable range of duties with that employee’s job classification.
 - Does the claimant’s disability result in a physical or mental condition or injury that existed

- or occurred before the claimants date of membership.
 - Was the disabling injury or condition incurred as a direct and approximate result of a member's performing his/her duties.
 - Accidental Disability is considered to have been ceased and the pension terminated if the member has sufficiently recovered in the opinion of the local board based on medical evidence from a medical board appointed by the local board and the member refuses an offer of employment or if the employee refuses a medical examination.
2. Ordinary Disability needs to have occurred when in the system but not on the job.
 - Ordinary Disability occurs when claimant has a physical condition that totally and permanently prevents him from performing a reasonable range of duties within the employee's department or a mental condition which will prevent the employee totally and permanently from engaging in any substantial gainful activity.
 3. Temporary Disability needs to have occurred when in the system and not on the job.
 4. Catastrophic Disability needs to have occurred when in the system and on the job.
 - A Summary discussion of the Public Safety Disability Hearing Process included:
 - The local board determines if the applicant is a member of the Public Safety Retirement System at time the application is filed.
 - Local board appoints a doctor or clinic to perform a medical evaluation of the applicant. The Board may deny a claim based on lack of evidence or continue the hearing pending additional information.
 - Copies of the applicants claim that releases the P5 should be forwarded to the physician with a letter that lays out relevant questions.
 - Submit a job description.
 - Once a medical report is received, the board sets a meeting.
 - Statute requires the local board finding of an accidental, ordinary, temporary or catastrophic disability shall be based on medical evidence by a physician or clinic appointed by the Board.
 - A motion to approve or disapprove a claimant's application should include a reference to the medical physician or board evaluation that the decision was based on.
 - If the application for disability is approved, the qualification form is forwarded to the Board of Trustees together with all relevant documents.
 - If an application for disability is approved, payment shall commence on the first day of the month following the termination of employment after the member has fulfilled all the requirements.
 - A re-Hearing is requested by claimant or State
 - The local Board's original decision needs to contain or include notification to the applicant of the employee's statutory rights to apply for a re-hearing.
 - The burden of proof for establishing disability rests on the applicant.
 - The Board can use a new physician if the first IME does not answer the questions correctly or thoroughly enough.
 - Reviewed the sample Accidental Disability Form (most common form used).
 - Reviewed the sample independent medical examiner process and motion form.
 - Reviewed the sample P5 form for Accidental Disability.

The Board requested clarification on the following:

- By what means the IME Report is processed once received by the Board. Mr. Whittington explained the IME report could be reviewed in (A.2) but it is relied upon in the public hearing when making a motion.

6) NEW BUSINESS

7) EXECUTIVE SESSION

The Board may vote to recess the Regular Meeting and hold an Executive Session, which will not be open to the public, for the following purposes:

- a) Possible vote to go into executive session for legal advice pursuant to A.R.S. §38-431.03(A)(3); for personnel matters pursuant to A.R.S. § 38-431.03(A)(1) and pursuant to A.R.S. 38-431.03(A)(2) for discussion or consideration of records exempt by law from public inspection regarding Gary Brusio's disability application.

MOVED by Board Member Vince Schaan, seconded by Board Member Cheri Romley to go into executive session at 4:17 p.m. to receive legal advice pursuant to A.R.S. § 38-431.03(A)(3), for personnel matters pursuant to A.R.S. § 38-431.03(A)(1) and to discuss records exempt from public inspection pursuant to A.R.S. § 38-431.03(A)(2) regarding Gary Brusio's disability application

Vote: 4 - 0 PASSED - Unanimously

8) NEW BUSINESS RESUMED

After the Executive Session, the Board will reconvene the Regular Meeting.

- a) Discussion and possible action regarding Gary Brusio's application for disability.

Board Members discussed the draft letter for the IME doctor. Mr. Brusio has been notified by email that the IME appointment is being arranged. An official notice will go out to Mr. Brusio once the appointment has been formally arranged. Any determination letter must be sent certified mail.

The Board discussed setting another meeting once the IME is returned.

9) ADJOURNMENT

The Board adjourned the meeting at 5:10 p.m.

Submitted: April 5, 2018.

By: *Vickie Nipper, Deputy Town Clerk*

Approved: June 27, 2018.