



City of Goodyear

See meeting location
below

Meeting Minutes

Fire Public Safety Personnel Retirement Board

Thursday, March 28, 2019

Goodyear City Hall, Room 204
190 N. Litchfield Rd.
Goodyear, AZ 85338

**Immediately following the Police Public Safety Personnel Retirement Board meeting that begins at
8:00 AM**

1. CALL TO ORDER

Chairman Stipp called the Fire Public Safety Personnel Retirement Board meeting to order at 8:17 a.m.

2. ROLL CALL

Present: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

Staff Present: Board Secretary Darcie McCracken, Board Attorney Cynthia Kelley, Total Compensation Administrator Jeanni Ruddy and City Clerk Specialist Alissa Magley

Citizens Present: Austin Peck and Orion Godfrey

3. APPROVE MINUTES

[MINUTES](#)
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Approve draft minutes of the Fire Public Safety Personnel Retirement Board meeting held on February 19, 2019.

**MOTION BY Boardmember Hernandez, SECONDED BY Boardmember Doyle, to
APPROVE the minutes from February 19, 2019. The motion carried by the following vote:**

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

4. CITIZENS COMMENTS/ APPEARANCES FROM THE FLOOR

None.

5. OLD BUSINESS

None.

6. NEW BUSINESS

Chairman Stipp addressed Mr. Peck, explaining the options for having an Executive Session or discussing Mr. Peck's application and medical history during the open meeting. Mr. Peck stated that he wanted his application and medical history discussed in open session.

- 6.1 Convene into executive session pursuant to A.R.S. §38-431.03 A(1) the Fire Pension Board may vote to convene in executive session to discuss or consider personnel matters, confidential records exempt by law from public inspection, review medical evaluations, and/or to consult with the Board's Attorney for legal advice and to consider the Board's position and to instruct the Board's Attorney regarding its position in contemplated litigation. Any Board action on these items will take place in open session.

a. Austin Peck

MOTION BY Boardmember Mathias, SECONDED BY Vice Chairman Stewart, to CONVENE an Executive Session. The motion carried by the following vote:

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

The Board entered into Executive Session at 8:21 a.m.

- 6.2 Adjournment of Executive Session.

The Executive Session was adjourned at 9:03 a.m.

The Fire Board meeting was reconvened at 9:03 a.m.

- 6.3 Review and possible action regarding a disability application for Austin Peck.

Chairman Stipp explained to Mr. Peck the purpose of the Board and what is taken into account for decisions on applications.

The Board discussed the different types of disability applications: ordinary, accidental and catastrophic. The applicant, Mr. Peck, supplied medical documentation to show cancer is present. The Board discussed whether the cancer was from occupational exposure and what level of disability retirement Mr. Peck qualifies for. There was discussion on conflicting medical records as to the cause of Mr. Peck's cancer.

The Board explained to Mr. Peck the options that the Board could take regarding his application. The application could be accepted for a certain level of disability and sent for a Independent Medical Examination (IME) or denied. In order to expedite the process, the Board could send Mr. Peck to an

IME with questionnaires for the three different levels of disability: ordinary, accidental and catastrophic. The IME would then indicate, through answering the questionnaires provided, the type of disability for which Mr. Peck qualifies.

Mr. Peck stated that he declines including any other type of disability application other than catastrophic. He stated that he was applying for catastrophic disability and that his cancer happened because of his occupation.

Mr. Peck asked what conflicting records the Board had referred to previously. Ms. Kelley explained that the Workman's Compensation IME conflicted with what other physicians said in the records. Mr. Peck asked if the Board was allowed to consider the Workman's Compensation records when making a decision. The Board affirmed that Workman's Compensation records could be considered by the Board as well as the administrative hearing that took place.

MOTION BY Boardmember Doyle, SECONDED BY Vice Chairman Stewart, to ACCEPT the catastrophic disability application for Austin Peck. The motion carried by the following vote:

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

MOTION BY Boardmember Doyle , SECONDED BY Vice Chairman Stewart to send Austin Peck to an Independent Medical Examination. Additionally, the Independent Medical Examiner should be an Oncologist with an emphasis in occupational exposures and causation, if available. The motion carried by the following vote:

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

Chairman Stipp explained that Ms. Ruddy would make contact with Mr. Peck regarding the IME. Ms. Ruddy stated that as soon as the IME is scheduled, the next meeting of the Board could tentatively be scheduled about ten days out to receive the paperwork.

Ms. Ruddy explained to Mr. Peck that it may take some time to find a provider for the IME in the specialty the Board stipulated. She stated that the IME will be a doctor that does not work for the city and has not previously treated Mr. Peck.

6.4 Recognition of separations since January 2019.

City Clerk Specialist Alissa Magley provided the Fire department separations since January, 2019.
1. Tanner King - 1/2/2019

MOTION BY Boardmember Hernandez, SECONDED BY Vice Chairman Stewart, to ACKNOWLEDGE the separation of employees since January, 2019. The motion carried by the following vote:

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

7. INFORMATION ITEMS

8. NEXT MEETING

The next meeting of the Fire Board is April 22, 2019 at 3:00 p.m.

Mr. Godfrey, on behalf of Mr. Peck, asked if the IME comes back and there is not enough evidence to find that the cancer is work-related, how the Board would proceed. Ms. Kelley explained that the Board is closely bound to what the IME states; however, Mr. Peck would be able to request a rehearing if there was a denial.

Mr. Godfrey asked if the Board is able to send specific questions to the IME. Mr. Godfrey explained that the most important question is for the doctor to review and make a decision on the type of cancer. Sinonasal Undifferentiated Carcinoma (SNUC) is a rare cancer with little research available. There are studies showing that SNUC as a nasopharyngeal and adenocarcinoma cancer, both of which are presumptive cancers. Arizona Revised Statute §23-901 identifies presumptive cancers, occupational diseases and proximate causation.

Mr. Godfrey stated that Mr. Peck has documentation that shows the effects of exposure to tetrachlorodibenzo and formaldehyde, both of which are known carcinogens. Mr. Godfrey explained that Mr. Peck has had contact with these carcinogens during his employment as a firefighter. The International Agency for Research on Cancer (IARC) has classified both tetrachlorodibenzo and formaldehyde as level 1 carcinogens.

Mr. Godfrey stated that if the IME Mr. Peck is sent to would be able to rule on the type of cancer, the IME may be able to show the Board that it is a presumptive cancer.

MOTION BY Boardmember Hernandez, SECONDED BY Boardmember Mathias, to RE-OPEN item 6.3. The motion carried by the following vote:

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

- 6.3 Mr. Peck stated that the most recent medical documentation submitted were letters from the doctors explaining his condition. The additional documents do not address specific exposures to carcinogens but explain the typical exposure for firefighters.

The board discussed the medical records provided and research from the National Institutes of Health (NIH) and IARC. The research provided that formaldehyde and tetrachlorodibenzo were carcinogens.

Chairman Stipp explained to Mr. Peck that all medical documentation provided is going to the IME.

Mr. Godfrey asked if the IME rules that Mr. Peck's cancer is adenocarcinoma or nasopharyngeal cancer, but asserts that it was not work-related, can the Board decide against the IME. Vice Chairman Stewart stated that the Board would send the findings back with follow-up questions.

The Board formed the questions to send to the IME:

1. What is the diagnosis or diagnoses and is it related to his work as a fire fighter?
2. Can the doctor determine whether the applicant was exposed to a known carcinogen as identified by IARC?
3. Is there a reasonable relationship between a particular carcinogen and the applicant's type of cancer?
4. Please describe your opinion regarding causation to a reasonable degree of medical probability as to whether any evidence exists to support a causal connection between the applicant's work and his cancer diagnosis.
5. Is this type of cancer considered a nasopharyngeal or adenocarcinoma?

Chairman Stipp instructed staff to provide any Statutes discussing presumptive cancers and the Statutes definition of catastrophic.

MOTION BY Boardmember Mathias, SECONDED BY Boardmember Hernandez to APPROVE sending the stated questions and referenced statutes to the Independent Medical Examination. The motion carried by the following vote:

Ayes: 5 - Chairman Stipp, Vice Chairman Stewart, Boardmember Doyle, Boardmember Hernandez and Boardmember Mathias

9. ADJOURNMENT

There being no further business to discuss, Chairman Stipp adjourned the meeting at 9:39 a.m.

Respectfully Submitted by:

Darcie McCracken, Board Secretary

Bill Stipp, Chairman

Date: _____

