



Minutes

Joint Meeting of the Tempe Public Safety Personnel Retirement Boards for Police and Fire November 6, 2008

Minutes of the Joint Meeting of the Tempe Public Safety Personnel Retirement Boards for Police and Fire held on Thursday, November 6, 2008, 3:00 p.m., Tempe City Hall – Mayor’s Office, 31 E. 5th Street, Tempe, Arizona.

Board Members Present:

Mayor Hugh Hallman
Todd Bailey
Joe Brosius
Jim Foley
Joe Schiefer

Board Members Absent:

Richard Woerth
Matt Tripoli

City Staff Present:

Jan Hort, Clerk’s Office
Lourdes Robertson, Human Resources

Guest

David Niederdeppe, Board Attorney

Mayor Hallman called the meeting to order at 3:04 p.m.

ITEM I – Discussion and Consideration of Board Processes

David Niederdeppe, Board Attorney, summarized that the Public Safety statute was amended this past summer, effective September 28, 2008, to suggest that until a local board adopts procedures for the treatment of matters that come before it, it will be bound by procedures developed by Fund Managers Council. That Council has developed such procedures which are very detailed and centered around contesting parties before a local board. A local board, unless there is a denial of something, isn’t really contesting anything, but rather seeking truth in a quasi-judicial capacity. He has been recommending to the local boards develop their own processes. To this point, he has not developed a process that he is recommending. The City of Phoenix did and the City of Mesa is contemplating an approach that would have the board secretary put a one-page document briefly describing what happens typically when the board meets and entertains matters, then adopting that pending the direction of a subcommittee to develop something that has a little more substance. He advised authorizing staff to put something together as an interim set of procedures that will protect the Board in the cases that come before it. He suggested appointing a subcommittee of board members to work with counsel and staff to develop something that would be more substantive.

Mr. Niederdeppe explained that interim rules can be as simple as one page, pending the development of something more substantive. Adoption of interim rules puts into place procedures so that the board is not then bound by the

more complicated procedures. Also, if a hearing is not commenced within 90 days, then an application is deemed granted. He suggested asking the current claimant if it is acceptable to suspend the operation of the technical rules that require him to do some things that he has not done, in the interest of moving this application forward.

Mayor Hallman clarified that currently a thirteen-page set of rules is in place, and the Board has pending before it one non-routine matter. He is not convinced that these procedures have been followed (if they are currently deemed in place) in regards to what the Board has done so far. On today's agenda there is one recruit and a medical retirement, and these procedures would need to be applied to them.

Mr. Niederdeppe responded that he believed the other matters on the agenda would be considered uncontested and routine subject to summary approval. Even under the Fund Manager's rules, there is permission for those matters to be handled.

Mayor Hallman added that it says "the board may authorize" and the Board hasn't done that yet, so we don't even have a process by which to tell us which are routine and which are non-routine. The rule requires that we take action to authorize our secretary to determine which are routine and which are non-routine. We have to set in place the process by which we can then say that this matter is routine so that we can say we have complied with the rules.

Mr. Niederdeppe added that these are procedural rules and the chance of someone objecting, after he has been granted everything he has asked for, is slim.

Mayor Hallman suggested immediate action so that we have something in place other than the Fund Manager's Rules that gives the board complete latitude, except for our decision or desire that we have to send 20 days working notice about a decision and 10 days notice for a meeting if it is a contested matter and 48 hours notice to the administrator of our decisions. What do we currently do on the decisions that we make?

Jan Hort, Board Secretary, responded that it is usually mailed within 48 hours following the meeting. We let them know ahead of time electronically what is on the agenda; if something doesn't pass, then we let them know immediately after the meeting electronically. Then the official papers get mailed no later than 10 days but usually within 48 hours.

Mayor Hallman added that we are holding a meeting that is in violation of the rules that are already in place, both for uncontested or contested matters. That is one rule we could adopt today for the secretary to designate which are routine and which are non-routine.

Motion by Joe Brosius to have the Board Secretary designate items as routine or non-routine. Second by Joe Schiefer. Motion passed unanimously on a voice vote.

Mayor Hallman asked the Secretary if there is anything on the agenda that is routine.

Ms. Hort responded that all items are routine.

There was discussion concerning the procedures outlined by the City of Phoenix.

Mayor Hallman outlined changes to the procedure sample document which was distributed to the board.

- Replacing "Phoenix" with "Tempe" and deleting "Draft."
- Paragraph #1, deleting the word "acceptable."
- Paragraph #2 - acceptable as written.

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- Deleted Paragraph #5 since it is identical to Paragraph #3, except for use of "non-routine" and "routine." They will be the same, so "routine" is deleted, and it reads, "The local board will commence consideration of a claim within 90 days."
 - Paragraph #4 – acceptable as written.
 - Paragraph #6 – change to read "#5"
 - Paragraph #7 – change to read "#6"
 - Paragraph #8 – change to read "#7"
 - Paragraph #9 – change to read "#8" – leave in "notify via electronic means or via U. S. mail." Change "48 hours" to "10 days"

Motion by James Foley to approve interim procedures as described effective 11/06/08. Second by Joe Brosius. Motion passed unanimously.

Mayor Hallman proposed waiting until the City of Phoenix develops its rules and develop our rules after examining theirs. .

Mr. Niederdeppe suggested a final draft of the interim procedures be provided to Human Resources for distribution.

Motion was made by James Foley and seconded by Joe Brosius to recess the Fire Public Safety Personnel Board Meeting portion of the meeting. The motion passed unanimously.

Meeting was adjourned at 3:25 p.m.

Prepared by: Connie Krosschell

Jan Hort
City Clerk