

Minutes Tempe Fire and Police Public Safety Personnel Retirement Board Joint Meeting August 4, 2011

Minutes of the Tempe Fire and Police Public Safety Personnel Retirement Boards Joint Meeting held on Thursday, August 4, 2011, 3:00 p.m., Tempe City Hall, third floor Council Conference Room, 31 E. 5th Street, Tempe, Arizona.

Board Members Present:

Joe Brosius
Jim Foley
Todd Bailey
Jeff McHenry
Rich Woerth (*via teleconference*)
Matt Tripoli

Board Members Absent:

Mayor Hugh Hallman

City Staff Present:

Brigitta Kuiper, City Clerk
Lourdes Robertson, Human Resources representative

Guests Present:

Cynthia Kelley, Legal Counsel

Joe Brosius called the meeting to order at 3:07 p.m.

ITEM I – Public Appearances

Joe Brosius stated that this agenda item allows members of the public to address the board for up to three minutes. This agenda item was moved to the end of the meeting.

ITEM II – Joint discussion with the Fire and Police Public Safety Personnel Retirement System Boards

Jim Foley entered the meeting at 3:11 p.m.

Local Board Procedures. Todd Bailey stated that he had questions regarding the local board procedures and had asked that legal counsel review the model rules adopted by the Public Safety Personnel Retirement System (PSPRS). Cynthia Kelley, legal counsel, provided a memorandum to the Board members, dated July 25, 2011, with legal counsel's review of Tempe's Local Board Procedures (adopted July 2009) and the PSPRS model rules. The PSPRS model rules and procedures have changed over time and have become more user-friendly. The PSPRS model rules encompass most topics and reflect statutory changes in terms of procedures. The Tempe Fire and Police Public Safety Personnel Retirement Boards may consider adopting the PSPRS model rules at this time. The PSPRS model rules address psychological disabilities such as post-traumatic stress and include guidance for notification in cases of non-routine disability claims. Board members discussed using the PSPRS model rules as opposed to the Local Board procedures. Given the information provided, Board members discussed continuing the discussion to the September Board meeting to allow sufficient time to review all the information prior to making a decision. The Board could decide to continue using the Local Board procedures, adopt the PSPRS model rules, or modify the Local Board procedures to incorporate certain portions of the PSPRS model rules.

Motion by Todd Bailey to continue this agenda item to the next meeting date; second by Jeff McHenry; motion passed unanimously 6-0.

Proposed Retirement Statement/Affidavit. Jeff McHenry referenced a Retirement Statement/Affidavit used by the City of Phoenix and asked board members if they wanted to consider adopting the use of such a form. There is a 60-day rule concerning employment status and Internal Revenue Service (IRS) provisions as well. Cynthia Kelley, legal counsel, provided a memorandum to the Board members, dated July 25, 2011, with legal counsel's review of the reemployment affidavit. Ms. Kelley noted that David Niederdeppe has represented the City of Phoenix public safety personnel retirement systems for several years and assisted in creating the retirement statement/affidavit. Use of the retirement statement/affidavit may resolve some issues that Tempe's public safety personnel retirement boards encounter. A possible ramification of not using the retirement statement/affidavit could be losing the qualified status of the fund. IRS could review an individual's tax status and may re-evaluate their tax status in terms of pension amount.

Board members reviewed retirement statement/affidavit and discussed the merits of using the affidavit in Tempe. The Human Resources Department could be asked to include the affidavit as part of the City's requirement packet. Board members discussed what would occur if an individual refused to sign the affidavit, enforcement issues and if the affidavit should be a requirement. The purpose of the form is to ensure there is not a prior arrangement to re-employ an individual; the Board is responsible for reviewing retirement documentation. There is a fiduciary responsibility to PSPRS. Jeff McHenry noted that the City of Phoenix was forward thinking in terms of using this affidavit. Board members questioned what other jurisdictions use the affidavit.

Rich Woerth exited the meeting at 3:28 p.m. Discussion continued regarding the merits of the affidavit.

Motion by Jeff McHenry to accept using the statement as part of the retirement packet after the document has been revised to reflect that it is for the City of Tempe; second by Matt Tripoli.

In response to a question, Ms. Kelley stated that the affidavit protects the board. Board members continued discussions concerning the possibility of a retiree applicant refusing to sign the affidavit and what would occur. Ms. Kelley stated that the issue of not signing the affidavit did not come up in discussions with the City of Phoenix.

Jeff McHenry withdrew his motion; Matt Tripoli withdrew his second.

Discussion followed regarding continuing this item until the corrected and complete version of the affidavit is available. Ms. Kelley was asked to confer with Phoenix officials regarding the process if a retiree applicant does not sign the affidavit.

Motion by Jeff McHenry to continue this agenda item to the September meeting with a version of the form corrected for the City of Tempe; second by Matt Tripoli; motion passed unanimously 5-0.

Motion by Todd Bailey to adjourn the joint meeting; second by Jeff McHenry. Motion passed unanimously on a voice vote 5-0. The meeting adjourned at 3:30 p.m.

Brigitta M. Kuiper, Local Board Secretary