



Minutes Tempe Fire Public Safety Personnel Retirement Board June 10, 2010

Minutes of the Tempe Fire Public Safety Personnel Retirement Board, held on Thursday, June 10, 2010, 3:00 p.m., Tempe City Hall – Mayor's Office, 31 E. 5th Street, Tempe, Arizona.

Board Members Present:

Mayor Hugh Hallman	Joe Brosius
Matt Tripoli	Jim Foley
Rich Woerth	

City Staff Present:

Jan Hort, City Clerk	Brigitta Kuiper, Asst. City Clerk
Lynna Soller, Human Resources	Lourdes Robertson, Human Resources

Guests Present:

Kolby Granville	Cynthia Kelley
David Niederdeppe, Legal Counsel	

Mayor Hallman called the meeting to order at 3:00 p.m.

ITEM I – Consideration of Meeting Minutes

Motion by Joe Brosius to approve the minutes of April 8, 2010. Second by Rich Woerth. Motion passed unanimously.

ITEM II – Motion to Adjourn to Executive Session, if necessary

No action taken.

ITEM III – Retirement Application – Steve Baker - Rehearing

Mr. Niederdeppe explained that this rehearing case is about Mr. Baker working to the end of his DROP period on full duty, and then within a one year timeframe, submitting an application for the Board to consider his retirement as a disability retirement. Since his case was similar to a pending Court of Appeals case, the Board agreed to postpone his hearing until after the Court of Appeals had rendered a decision. The ruling in the Court of Appeals case would make it difficult for Mr. Baker to prevail on a claim that he was disabled when he left the workplace. Mr. Baker has subsequently sent an email to the secretary of the Board stating that he would like to withdraw his request for a rehearing.

Mayor Hallman stated there are employees that choose to work through their term of employment and then are precluded from applying for a disability retirement, even though following their retirement, they are unable to find comparable employment because of an injury. This is something that the legislature should address.

Mayor Hallman asked if the e-mail request to withdraw the rehearing request was considered legally acceptable. Mr. Niederdeppe replied yes, it could be considered legally acceptable, however Mr. Baker should understand that there remains the possibility that the ruling from the Court of Appeals could be overturned by the Supreme Court.

Mayor Hallman commented that he is not convinced that the e-mail hearing withdrawal notification is legally sufficient and noted that the hearing be set for a future date. He also directed that the Board continue to monitor whether or not the case previously mentioned goes to the Supreme Court and if so, the outcome of that ruling.

ITEM IV – Tempe Fire Department Election Results

Ms. Hort explained that in 1999 a Board member was appointed to fill an unexpired term of office; however their term expiration date was recorded incorrectly. The purpose of this agenda item is to ensure that the term expiration dates for Rich Woerth and Matt Tripoli are correct from this point forward.

Mayor Hallman asked Mr. Niederdeppe if there would be any legal ramifications on any votes taken during that time period, given the term expiration discrepancy. Mr. Niederdeppe replied that if there were actions to which there were 3-2 votes, it could possibly be a problem. Mayor Hallman directed Ms. Hort to review the records to make sure no legal matters would have been affected within the last two years in which Mr. Woerth was on the winning side.

A motion was made by James Foley to accept Rich Woerth with the expiration date of 6/30/2012. Second by Joe Brosius. Motion passed 4-0 with Mr. Woerth abstaining from the vote.

A motion was made by James Foley to accept Matt Tripoli with the expiration date of 6/30/2014. Second by Joe Brosius. Motion passed 4-0 with Mr. Tripoli abstaining from the vote.

Jim Foley made a motion to adjourn. Second by Matt Tripoli. Motion carried unanimously.

The meeting was adjourned at 3:10 p.m.

Prepared by: Jaclyn Levin
Reviewed by: Kay Savard

Jan Hort
City Clerk