

## **Minutes Tempe Fire and Police Public Safety Personnel Retirement Board Joint Meeting September 1, 2011**

Minutes of the Tempe Fire and Police Public Safety Personnel Retirement Boards Joint Meeting held on Thursday, September 1, 2011, 3:00 p.m., Tempe City Hall, Public Works Conference Room, Garden Level, 31 E. 5th Street, Tempe, Arizona.

**Board Members Present:**

Joe Brosius  
Jim Foley  
Todd Bailey  
Jeff McHenry  
Rich Woerth

**Board Members Absent:**

Mayor Hugh Hallman  
Matt Tripoli

**City Staff Present:**

Brigitta Kuiper, City Clerk  
Lynna Soller, Employee Benefits Manager  
Lourdes Robertson, Human Resources representative

**Guests Present:**

David Niederdeppe, Legal Counsel  
Cynthia Kelley, Legal Counsel

Joe Brosius called the meeting to order at 3:05 p.m.

**ITEM II – Consideration of Meeting Minutes**

Motion by Jeff McHenry to approve the meeting minutes of August 4, 2011 with the following amendment: page 2, second sentence to read: “There is a 60-day rule concerning employment status and Internal Revenue Service (IRS) provisions as well.”; second by Jim Foley; motion passed unanimously on a voice vote 5-0.

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

**Local Board Procedures.**

David Niederdeppe, Legal Counsel, provided background information on why existing local board procedures were developed. Tempe’s existing Local Board procedures were modeled after City of Phoenix procedures to assist in how cases are approached by the Board. Presentation and discussion highlights include:

- The legislature abolished the requirement to re-examine ordinary disability individuals for their income, therefore Item #10 in the current Local Board procedures is no longer necessary.
- The model procedures take into account the types of activity the Fund Administrator and the Board of Trustees prefer to see from local boards.
- The Board can adopt the model procedures, amend the existing Local Board procedures, or do something in between and still have a lawful set of procedures.
- The model procedures serve as default procedures if Local Board procedures are not adopted.
- The model procedures direct the Board towards a tag team approach to psychiatrist disciplines, utilizing both a psychiatrist (physician) and a psychologist.
- The model procedures state that a quorum for a body of three is two members, whereas the Local Board procedures designate three members of the Board as a quorum; the Local Board procedures are much safer from an Open Meeting Law perspective

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- Should the Board wish to rewrite their rules of procedure, the potential to hold joint meetings should be considered
  - The Board Secretary is the City Clerk as designated in the Local Board procedures. The Local Board composition is set up by State Statute; the statute allows for flexibility in designating the Board Secretary.

The Board Secretary was asked to take the model rules and include the following additional provisions in a draft form for the Board's consideration at the next meeting:

- Eliminate Item #10 – the requirement to re-examine ordinary disability individuals for their income.
- Include a tag team approach to psychiatrist disciplines, with a psychiatrist and a psychologist.
- Include the potential to hold joint fire and police public safety personnel retirement board meetings
- Maintain verbiage of current Local Board procedures that three members serve as a quorum
- Maintain verbiage of model rules regarding the Local Board Secretary position to allow for flexibility

#### **Proposed Retirement Statement/Affidavit**

David Niederdeppe, Legal Counsel, noted the following regarding the retirement statement/affidavit:

- Affidavit was developed from the Fund Administrator's desire to maintain the tax qualified status of the retirement system
- Previous rehire decisions in other jurisdictions did not take into account these provisions
- Serves as proof to the Internal Revenue Service that there has been a separation
- Statute has been amended and includes the 60-day rule for separation from employment for retirement benefits

Jeff McHenry stated that the Public Safety Personnel Retirement System has information that they require the employer to include in an affidavit; the employer and new employee must sign the affidavit. Mr. McHenry suggested that perhaps instead of the retirement statement/affidavit being discussed, the Board require retirees to sign a document stating that the retiree has received retirement "guidelines". Mr. Niederdeppe explained that rehire reporting is provided to the Fund Administrator by the employer. It is at that point in time when individuals are asked to recap what took place.

Joe Brosius questioned whose responsibility it is to notify the Fund Administrator. Mr. Niederdeppe stated that the statute states that it is the employer, the City's responsibility, to notify the Board of re-employments. In that context, it is the Board of Trustees, not the Local Board. Whether or not the individual is qualified for a pension is a question that is posed to the Local Board.

It was determined that a retirement statement/affidavit is not necessary. The Board recommended that the Human Resources Department provide Police and Fire retirees with retirement guidelines.

Motion by Jim Foley to adjourn the joint meeting; second by Rich Woerth. Motion passed unanimously on a voice vote 5-0. The meeting adjourned at 3:26 p.m.

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Brigitta M. Kuiper, Local Board Secretary