

DRAFT

The Public Safety Retirement Board of Pima County, Arizona met in session on the 1st floor board conference room at 130 W Congress, Tucson, AZ at 8:30 a.m. November 3rd, 2021.

VOTING MEMEBERS PRESENT:

Ms. Jennifer Cabrera - Telephonically
Mr. Michael Hellon - Telephonically
Mr. Leo Duffner
Lt. Costaki Manoleas
Sgt. Hans Goritz - Telephonically

VOTING MEMBERS ABSENT:

OTHERS PRESENT:

Attorney: David McEvoy
Secretary: Robin Jobst
Ms. Merle Turchik

Ms. Cabrera, chair of the board convened the meeting at 8:30 a.m.

Item 1 on the agenda was a Roll Call. Attendance as listed above with Ms. Cabrera, Mr. Hellon and Sgt. Goritz appearing telephonically.

Item 2 on the agenda was the Pledge of Allegiance.

Item 3 on the agenda was the approval of minutes from the meeting held on 10/06/2021. Lt. Manoleas motioned to approve the minutes as submitted. Mr. Duffner seconded the motion. Motion passed unanimously.

Item 4 on the agenda was the rehearing on the Application for Accidental Disability Retirement for David Smith. Ms. Turchik provided the Board a declaration by David Smith for the record. She referred to the Board's initial denial regarding Mr. Smith's application for disability retirement. Mr. Smith went to the Doctor in April of 2021 before his termination from DROP and retirement in July 2021. She referenced Dr. Miller's report that was completed in May 2021 and the details of his medical condition and events from the Erik Hite incident in 2008. Ms. Turchik spoke to the Board about Mr. Smith entering DROP in July of 2016 which requires that he separates employment by July, 31st 2021. She spoke about the timeline of the Board and the doctor's schedule. Ms. Turchik quoted Dr. Johnson's report that his PTSD: "Mr. Smith's condition totally and permanently prevents him from performing his duties." She spoke about Mr. Smith's declaration and that he terminated his employment because of his mental condition. Ms. Turchik asked the Board to revote and consider the Disability application. Mr. McEvoy spoke to the Board about that letter and request for rehearing that was submitted by Ms. Turchik and wanted to address her request. He spoke about the differences of workman's comp and PSPRS laws and standards for disabilities. Mr. McEvoy discussed that workman's comp is

useful in the sense of determining a causal relationship between the events and duties as a police officer for a disability application. He spoke about the cases and that the Board does not determine whether someone is disabled but that determines whether it was incurred in the line of duty and whether it meets the unusual, unexpected or extraordinary standards. The France case provides the standard that a specific incident should occur and not gradual stress of the job. Mr. McEvoy referred to page 4 of Dr. Johnson's report and that the Erik Hite incident in 2008 is the predicate for the disability and other events that have happened following the 2008 event. The Board must determine whether the events were to be gradual or whether that 2008 event satisfies the legal standard. Mr. Duffner asked about the reason of denial being because Mr. Smith had already separated. Lt. Manoleas informed that was on the checklist. There was discussion about if there is medical evidence to support the application and should the timeline be the decisive factor for denial. Sgt. Goritz questioned the denial since the medical records were there. Ms. Cabrera asked if legally the Board could change the decision. Mr. McEvoy explained that the question and decision was made after he separated. He explained the Board could reconsider the application based on the reports of the incident. Mr. Hellon asked about why the application was denied and wanted clarity. Ms. Jobst explained the timing was in question do to the form that PSPRS asks if the separation is a reason due to disability. Sgt. Goritz feels the based on the medical report from Dr. Johnson, the disability was present and moved to approve the application with an effective date of 08/01/21. Lt. Manoleas seconded the motion. Motion was approved with a 3-2 vote.

Item 5 on the agenda was the review of the return to work status of Christopher Nanos. Ms. Jobst informed the Board that Sheriff Nanos retired as the Chief Deputy 07/31/21 and was elected as Sheriff 01/01/21. Mr. Duffner discussed Sheriff Nanos was out of office in 2015 and then elected to serve as the Sheriff. Mr. McEvoy discussed ARS 38.849 M and that Sheriff Nanos is not considered reemployed by Pima County. Mr. Duffner moved to approve his return to work and continued eligibility to receive his pension. Lt. Manoleas seconded the motion. Motion passes unanimously.

Item 6 on the agenda was the review of the return to work status of John Mawhinney. Ms. Jobst informed the Board that Mr. Mawhinney retired as a Deputy 03/01/19 and was subsequently rehired as an Evidence Tech 09/21/21. Mr. Mawhinney is not in a PSPRS designated position and waited longer than 60 days before becoming re-employed by Pima County. Mr. Hellon moved to approve his return to work and continued eligibility to receive his pension. Sgt. Goritz seconded the motion. Motion passes unanimously.

Item 7 on the agenda was the Application for Separation Refund for Alvaro Arizpuru. Lt. Manoleas moved to approve the application. Mr. Duffner seconded the motion. Motion passed unanimously.

Item 8 on the agenda was the review of Correspondence form PSPRS. Ms. Jobst informed the Board about the cancer insurance program for out of pocket reimbursement. Ms. Jobst discussed with the Board that she sent the revised HB2381 Model Uniform Rules regarding the changes for the Board and there is an open period for discussion about the changes.

Item 9 on the agenda was other board business. There was none.

Item 10 was the call to the public. There was none.

Mr. Hellon moved to adjourn the meeting, seconded by Mr. Duffner. Motion passed unanimously. The meeting adjourned at 9:05 a.m.

Robin Jobst
Secretary