

PIMA COUNTY PUBLIC SAFETY PERSONNEL RETIREMENT BOARD

THE PUBLIC SAFETY RETIREMENT BOARD OF PIMA COUNTY, ARIZONA MET IN SESSION ON THE 1ST FLOOR CONFERENCE ROOM, 130 W. CONGRESS, TUCSON, ARIZONA AT 8:30 A.M OCTOBER 7TH, 2015.

VOTING MEMEBERS PRESENT:

Ms. Jennifer Cabrera
Ms. Georgia Brousseau
Mr. Leo Duffner
Lt. Gary Anderson
Sgt. Pat McGhee

VOTING MEMBERS ABSENT:

OTHERS PRESENT:

Attorney: David McEvoy
Secretary: Robin Bengé
Court Reporter: Olivia Armenta
Other: Steve Bosse, Attorney for Mr. C Nanos
Mr. C Radtke
Ms. J Carpenter

Ms. Cabrera, chairman for the board convened the meeting at 8:30 am.

Item 1 on the agenda was a Roll Call. Attendance as listed.

Item 2 on the agenda was the Pledge of Allegiance.

Item 3 on the agenda was approval of the minutes from the board meeting on 09/02/15. Mr. Duffner waived the reading of the minutes and moved to approve the minutes as submitted. Ms. Brousseau seconded the motion. Motion passed unanimously.

Item 4 on the agenda was the Rehearing regarding the Local Boards decision regarding the return to work of Christopher Nanos. David McEvoy, board attorney, addressed the board regarding A.R.S. 38-849.E which discusses being reemployed in any capacity by the same employer from with they retired before one year from retirement or in the same position. He referenced subsection (b) which states the system shall not make pension payments to the retired member during the period of reemployment. Mr. McEvoy also indicated to the board that it was a change of position as Mr. Nanos has now been appointed to Sheriff and is not employed by the Pima County Sheriff's Department, but is subject to removal by the citizens of Pima County. The legal standard for determining whether Mr. Nanos is an employee of Pima County is the "right to control" test stated in judicial cases. Ms. Brousseau then addressed the board regarding the previous decision in September by the board regarding the return to

work of Mr. Nanos. Mr. Bosse spoke to the board regarding the totality of the PSPRS System. He indicated that in EORP that the term "employee" does not exist, but in CORP and PSPRS it does. Sgt. McGhee made the motion that based upon the letter received from PSPRS dated 09/11/15 the board stands by the original motion made at the September meeting and reaffirmed that decision that Mr. Nanos is not subject to the re-employment statute. Ms. Brousseau seconded the motion and also made reference to two cases from LexisNexis, No. 18294-PR and No. 1 CA-IC 687. Motion passed unanimously.

Item 5 on the agenda was the discussion and possible action regarding the return to work of Mr. Christopher Radtke. The board secretary told the board that Mr. Radtke retired on 09/04/15 and his application to terminate from the DROP was approved last month. Mr. Radtke then subsequently was rehired by the Pima County Sheriff's Department on 09/06/15. Mr. Radtke spoke to the board regarding his retirement and his re-employment with the Sheriff's department. He read from the statute, A.R.S. 38-844.08, which is in reference to the payment of the DROP benefits and referenced A.R.S. 38-845. Mr. Radtke is aware that he is not eligible to receive his pension based on A.R.S. 38-849.E. Mr. McEvoy, the board attorney, read to the board from the statute A.R.S. 38-849.E regarding the consequences of re-employment and ARS 38-844.08 regarding the payment of the DROP benefits, and concluded that the re-employment provisions of ARS Section 38-849.E do not apply to ARS Section 38-844.08. In other words, Mr. Radtke is entitled to the provisions of ARS Section 38-844.08 regardless of his re-employment by Pima County Lt. Anderson made the motion that Mr. Radtke retired and was re-employed within one year by the same employer and is subject to the provisions of A.R.S. 38-849 E, but is still entitled to the provisions of A.R.S. 38-844.08. The motion was seconded by Sgt. McGhee. Motion passed unanimously.

Item 6 on the agenda was the Application for New Membership with an effective date of 8/24/15 for Tyler Rivas (noted pre-existing condition). Mr. Duffner moved to approve the application, seconded by Sgt. McGhee. Motion passed unanimously.

Item 7 on the agenda was the Application for New Membership with an effective date of 9/16/15 for George Dinniman, John Flanagan (noted pre-existing condition) and Michael Turner (noted pre-existing condition). Mr. Duffner moved to approve the applications, seconded by Lt. Anderson. Motion passed unanimously.


Item 8 on the agenda was the Application for New Membership with an effective date of 9/17/15 for Skyler Allen (noted pre-existing condition), Cody Alvarez (noted pre-existing condition), Matthew Cobb (noted pre-existing condition), Jared Ernest, Jason Impellizzeri, Amber Napoleon (noted pre-existing condition), Kathryn Reavis, Jacob Rippberger, Jonathan Salt and Michael Villarreal (noted pre-existing condition). Mr. Duffner moved to approve the applications, seconded by Sgt. McGhee. Motion passed unanimously.

Item 9 on the agenda was the Applications to Transfer Service Credits Between PSPRS Employers for Shaun Daniels, Andrew Fletcher, Randall Leading Fox and Michael Powell. Mr. Duffner moved to approve the applications, seconded by Lt. Anderson. Motion passed unanimously.

Item 10 on the agenda was the review of Correspondence from the PSPR System. No correspondence was received. Mr. Duffner let the board know that he did sign the loyalty oath. The Board Secretary also informed the board that Sgt. McGhee would be retiring in December and election is necessary.

Item 11 was the call to the public. None responded

Mr. Duffner moved to adjourn the meeting, seconded by Ms. Brousseau. Motion passed unanimously. The meeting was adjourned at 9:02 a.m.



Robin A. Bengé, Secretary