

1. PSPRS Fire Board Meeting Agenda

Documents:

[PSPRS FIRE MEETING 12132021.PDF](#)

1.I. PSPRS Local Board Fire 12/13/2021 Agenda W Actions

Documents:

[FIRE AGENDA 12132021 WITH ACTIONS.PDF](#)



BOARD OR COMMISSION: Local Pension Board – Fire

December 10, 2021

NOTICE

Pursuant to A.R.S. § 38-431.01, notice is hereby given that the City of Douglas Fire Department Public Safety Personnel Retirement System Board, **will hold an in-person and telephonic/Zoom meeting open to the public on December 13, 2021, beginning right after the joint session at 12pm ends in the HR Training Room at City Hall, 425 10th Street, Douglas, Arizona**, for the purpose of deciding regular business and/or whether to go into Executive Session. The Board may vote to go into Executive Session pursuant to A.R.S. § 38-431.03 for the purpose of discussion or for legal advice with the Board attorney regarding any item on this agenda. If authorized by a majority vote of the members of the City of Douglas Fire Department PSPRS Local Board, the Executive Session will be held immediately after the vote and will not be open to the public. An Executive Session if approved, is authorized under A.R.S. § 38-431.03, Subsection (A), Paragraph 3.

Due to the impacts of the COVID-19 pandemic, this meeting will be conducted using measures to protect public health. This meeting will be held in person and remotely through technological means, as permitted under Arizona law. If you would like to participate in the meeting by phone, please call (520) 417-7326 by 11 am that same day to notify us and we will provide further instructions.

The purpose of this meeting is to conduct the regular business of the Local Pension Board- Fire and any other business that may properly come before the Board.

If any person needs any type of accommodations for disabilities, please notify Nadia Rodriguez at (520) 417-7326, as soon as possible prior to the meeting time.

Rocio Garcia-Pedroza
Douglas Local Pension Board - Secretary

AGENDA

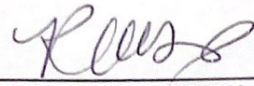
LOCAL PENSION BOARD – FIRE

DECEMBER 13, 2021

REGULAR MEETING RIGHT AFTER JOINT LOCAL BOARD MEETING AT 12:00 P.M.

1. CALL TO ORDER
2. ROLL CALL
3. REVIEW AND APPROVAL OF MEETING MINUTES FROM November 10, 2021.
4. Pursuant to A.R.S. §38-431.03, (A)(3), the Board may vote to go into Executive Session for discussion or consultation with its attorney, Pamela Treadwell-Rubin, regarding any item on the agenda. **Executive Sessions, for the purpose of obtaining Legal Advice and/or Confidential Medical Review from our PSPRS Attorney, if needed, are confidential under Arizona law.**
5. DISCUSSION/DECISION TO APPROVE RETIREMENT FROM DROP FOR RAUL ALVARADO EFFECTIVE 12/18/2021.
6. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON REHEARING REQUEST FROM PSPRS, INCLUDING ANALYSIS OF THE PSPRS QUESTIONNAIRE AND SUPPLEMENTAL MEDICAL BOARD REPORT, OF DR. JON ZOLTAN, M.D., DATED OCTOBER 15 AND 19, 2021.
7. REPORT TO THE BOARD MAILINGS RECEIVED FOR THE BOARD, IF ANY
8. REQUESTS OF THE BOARD
9. ADJOURNMENT

POSTED ON: December 10, 2021, at 10:30 a.m. Signed:



Rocio Garcia-Pedroza, HR Manager
Local Board Secretary



BOARD OR COMMISSION: Local Pension Board – Fire

December 10, 2021

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Rocio Garcia-Pedroza
Douglas Local Pension Board - Secretary

AGENDA – WITH ACTIONS TAKEN

LOCAL PENSION BOARD – FIRE

DECEMBER 13, 2021

REGULAR MEETING RIGHT AFTER JOINT LOCAL BOARD MEETING AT 12:00 P.M.

1. CALL TO ORDER 12:41 pm
2. ROLL CALL

	Present	Absent
Joseph Alvarez	X	
Frank Stevens	X	
Matthew King	X	
Mark Wilkinson	X	
Margaret Morales	X	

3. REVIEW AND APPROVAL OF MEETING MINUTES FROM November 10, 2021.

Motion by Joseph Alvarez, second by Frank Stevens to approve the minutes from November 10, 2021.
Motion PASSED by a vote of 5-0

4. Pursuant to A.R.S. §38-431.03, (A)(3), the Board may vote to go into Executive Session for discussion or consultation with its attorney, Pamela Treadwell-Rubin, regarding any item on the agenda. **Executive Sessions, for the purpose of obtaining Legal Advice and/or Confidential Medical Review from our PSPRS Attorney, if needed, are confidential under Arizona law.**

Motion by Joseph Alvarez, second by Matthew King to enter into executive session at 12:42pm. Motion PASSED by a vote of 5-0.

Reconvene from executive session at 1:09 pm.

Motion by Joseph Alvarez, second by Matthew King to adjourn the executive session. Motion PASSED by a vote of 5-0.

5. DISCUSSION/DECISION TO APPROVE RETIREMENT FROM DROP FOR RAUL ALVARADO EFFECTIVE 12/18/2021.

Motion by Frank Stevens, second by Matthew King to approve retirement from DROP for Raul Alvarado effective 12/18/2021. Motion PASSED by a vote of 5-0

6. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON REHEARING REQUEST FROM PSPRS, INCLUDING ANALYSIS OF THE PSPRS QUESTIONNAIRE AND SUPPLEMENTAL MEDICAL BOARD REPORT, OF DR. JON ZOLTAN, M.D., DATED OCTOBER 15 AND 19, 2021.

Motion by Joseph Alvarez to address the System's Rehearing Request dated November 19, 2021, and supplemented on November 30, 2021, by making the following findings:

- a. The accident on October 2, 2019, which was the basis of this claim, was witnessed, and no evidence to question its validity was presented to us.
- b. Dr. Zoltan did not state in his report, that he had any concerns about Mr. Martinez's veracity, and in his role as an independent examiner, we believe that he would have done so, if he had such concerns.
- c. We relied on Dr. Zoltan's opinion to grant Mr. Martinez's application, as we believe is required by A.R.S. §§ 38-859 (A) (2), and (C). That opinion clearly established that all requirements of the Accidental Disability definition were met, and that there was no pre-existing condition which could deny benefits.
- d. In reaching the above decision, we considered Dr. Zoltan's comments regarding subjective findings, and were aware that we would be awarding a disability based on them. We considered his comments to be consistent with other evidence in the case and did not find them sufficient to reject his opinion or deny benefits.
- e. We also note that in other settings, such as in Worker's Compensation, objective findings are critical to the analysis and in some instances, required by statute to be proven. None of the PSPRS provisions applicable here (A.R.S. §§ 38-844 (B, D) and -859 (C)), contain that language.
- f. While the Workers' Compensation claim was pending, Applicant Martinez saw his PCP, 4 spine specialists and 3 pain specialists, had imaging and nerve conduction studies done, and received physical therapy care. The Board reviewed all those records. None of the evaluators agreed completely as to what the diagnoses were, which body part or parts were responsible for the symptoms, or what the treatment plan should be. These examiners also did not agree on their interpretations of the objective evidence, including whether imaging showed a fracture, or if a muscle tear had occurred. 5 physicians documented findings on exam such as reflex changes, which could be of an objective nature, but they were not consistent from all examiners. One group of examiners mentioned mild functional overlay, but they were the only ones to do so, and only noted one out of five possible Waddell's signs to be present.
- g. The physicians referenced above, noted in their reports or chart notes, the same difficulty which Dr. Zoltan expressed, in analyzing the subjective and objective evidence.
- h. Three of the 5 examiners referenced above, imposed either an off-work status or work limitations, based on the condition(s) at issue. All work limitations from these other examiners, would have prevented the Applicant from performing a reasonable range of duties in his DOI job, thereby also meeting that portion of the PSPRS definitions which we applied to the Medical Board opinion.

- i. All the above facts, combined to result in our conclusion that as to the issue of subjective vs. objective findings, there is no true conflict in medical opinion, but if a reviewing authority concludes there is one, we resolve it in favor of our Medical Board doctor's opinion, as we believe we must, according to A.R.S. §§ 38-859 (C).
- j. We likewise find, that due to the large number of physicians whom the Applicant has already seen, with similar results as noted above, that a second Medical Board exam, if a new provider can be located to conduct it, will not produce different or more persuasive results.

Second by Matthew King. Motion PASSED by a vote of 5-0

Joseph Alvarez further moved to affirm the prior grant of the application for Accidental Disability for Richard Martinez, effective October 25, 2021, based on all material in prior Board packets, and the Medical Board reports and attached PSPRS Questionnaire, of Dr. Jon Zoltan, M.D., dated August 24, 2021, and October 15 and 19, 2021, along with the testing report dated October 6, 2021 from Sidney Spector, M.D.

Second by Matthew King. Motion PASSED by a vote of 5-0

7. REPORT TO THE BOARD MAILINGS RECEIVED FOR THE BOARD, IF ANY


Not an action item – no action taken

8. REQUESTS OF THE BOARD

Not an action item – no action taken

9. ADJOURNMENT 1:54 pm

POSTED ON: December 13, 2021, at 4:15 p.m. Signed: _____


Rocio Garcia-Pedroza, HR Manager
Local Board Secretary