MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

***May 5, 2015***

The Metropolitan Employee Benefit Board met for their regularly scheduled meeting on Tuesday, May 5, 2015 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:30 a.m.

Benefit Board members: Chair: Edna J. Jones; Members: Stephanie Bailey, Charles D. Clariday, Sr., G. Thomas Curtis, Veronica T. Frazier, B.R. Hall, Sr., Jerry Hall, W. Todd Henry, and Richard M. Riebeling.

Vice Chair: Christine Bradley was unable to be present.

Others present: Christina Hickey, Metro Human Resources, \*Mike Safley, Attorney, Metro Legal Department and Dr. Susan L. Warner, Civil Service Medical Examiner.

**A. MINUTES:** Chair Edna Jones called the meeting to order and said the first order of business was to determine if there were any amendments, corrections or questions of the minutes from the last regular meeting held on April 7, 2015**.** With no corrections, nothing further was noted and Doug Clariday moved for approval. Jerry Hall seconded and the Board approved without objection.

### B. APPEAL ANNOUNCEMENT:

Christina Hickey announced the process and timeframe for appealing a decision made by this Board.

### C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and social security referrals)

The terms of the approval or extension of the items listed in the motions are specifically stated in these minutes.

Dr. Susan Warner reported to the Board that she recommends approval of the disability pension new requests, items 2 through 4, for the length of time as recommended and denial on item 1. Jerry Hall moved for approval of the recommendation to approve the disability pension new requests, items 2 through 4 for the length of time as recommended and denial on item 1. Todd Henry seconded and the Board approved without objection.

Dr. Susan Warner reported to the Board that she recommends approval for continuing the disability pension reexaminations, items 5 through 8 for the length of time as recommended, with the exclusion of item 7. Stephanie Bailey moved for approval of the recommendation to continue the disability pension reexaminations, items 5 through 8 for the length of time as recommended, with the exclusion of item 7. Tom Curtis seconded and the Board approved without objection.

On item 7, Dr. Susan Warner reported to the Board that she recommends the disability pension be changed from in line of duty to medical based on the findings of the independent medical evaluation and assign vocational case management for general education diploma (GED) classes.

Paula Krebs, Eckman Freeman, reported that the individual has previously been in ESL classes with a goal of taking GED classes. Ms. Krebs stated that the individual would have to be placed back in English as a second language classes, (ESL). She also noted that the individual’s return to work with Metro is guarded given the work experience and restrictions.

There was some discussion of the requirements for the individual to be considered for a return to work and the requirements when individual was originally hired.

Harold Finch, Metropolitan Nashville Public Schools, (MNPS), confirmed that having a GED is a current requirement.

\*Denotes the arrival of Mike Safley.

There was further discussion of the individual’s restrictions, returning to work being a challenge, and the likelihood of the individual returning to work based on other medical issues and being able to complete the ESL and GED classes.

### C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and social security referrals) (continued)

There was also some discussion of information in the individual’s case management file related to oral skills (speaking and understanding) and the ability to read or comprehend written language.

After some discussion of the findings from an independent medical evaluation, (IME), noting some psychological issues, Richard Riebeling moved for approval of the recommendation to change the disability pension to a medical disability pension, with vocational case management services for ESL and GED and continue for the length of time as recommended (6 months). B.R. Hall seconded.

There was some discussion of what will be the status on this individual in six months time, additional testing to determine a basis for the disability, returning the individual to work and the requirements for the individual to return to work.

There was some discussion of the individual being hired under one set of rules, going out on disability, and now is medically fit to return to work and can’t because of a new set of rules.

Harold Finch, MNPS, stated that he would discuss this with the Human Resources area.

There was also some discussion of this being similar circumstances as a custodian who may have been out on disability.

Harold Finch stated that the custodian positions were contracted out and they are no longer available. He stated that in this situation, there is a position because they are in house.

After some discussion of if the person was already employed then it should be just a matter of putting them back in the position they were in before, B.R. Hall withdrew his second.

On item 7, Jerry Hall moved to return the individual to work. Tom Curtis seconded.

After some discussion of possibly deferring this item for clarification on the issues with returning the individual to work and MNPS becoming responsible for the pension if the individual is not returned to work, a vote was taken on the motion to return the individual to work and the Board approved with B.R. Hall abstaining.

Dr. Susan Warner reported to the Board that on items 9 and 10, she requests a deferral for one month. Richard Riebeling moved for approval of the request to defer items 9 and 10 for one month. Stephanie Bailey seconded and the Board approved without objection.

On item 11, Dr. Susan Warner reported to the Board that she recommends approval of return to work.

Harold Finch and Fred Carr, MNPS, were present.

Fred Carr addressed issues with Dr. Susan Warner and allegations against the individual and MNPS regarding the individual and returning the individual to work. He also noted that Dr. Warner has acted outside her scope with regards to returning the individual to work.

Dr. Susan Warner stated that the individual has been cleared by different physicians, (psychiatrist, psychologist; who conducted the independent psychological evaluation; physiatrist; who conducted the independent medical evaluation; and the physician from the social security disability review) and indicated that is her basis for returning the individual to work.

After some discussion of the individuals use of a certain medication precluding the individual from doing the current position, having a chauffers drivers license (CDL) is a requirement and the need for a CDL in that position, Veronica Frazier moved to return item 11 to work. Stephanie Bailey seconded and the Board approved with Veronica Frazier, Stephanie Bailey, Richard Riebeling, Edna Jones, and Tom Curtis in favor and Todd Henry, Doug Clariday, and B.R. Hall opposing and Jerry Hall abstaining.

On item 12, Dr. Susan Warner reported to the Board that she recommends approval of return to work.

### C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and social security referrals) (continued)

Evin Bayliss, Sheriff’s Office, stated they are prepared to return the individual to work.

Jerry Hall moved for approval of the recommendation on item 12 of return to work. Veronica Frazier seconded and the Board approved without objection.

Dr. Susan Warner reported to the Board that on item 13 she recommends approval of return to work.

Harold Finch, MNPS, stated they are prepared to return the individual to work.

B.R. Hall moved for approval of the recommendation on item 13 of return to work. Tom Curtis seconded and the Board approved without objection.

Dr. Susan Warner reported to the Board that on item 14 she recommends that the individual be removed from the return to work list based on a new medical condition and to continue the disability pension for the length of time as recommended. Jerry Hall moved for approval of the recommendation on item 14 to remove the individual from the return to work list and continue the disability pension for the length of time as recommended. Doug Clariday seconded and the Board approved without objection.

On item 15, Dr. Susan Warner reported to the Board that this item is being brought to the Board at the request of MNPS.

Harold Finch, MNPS, stated that he thinks this issue has been resolved. He stated that although the injury on duty has resolved, there are restrictions related to a medical condition that prevent the individual from returning to work. He stated that there is nothing available and they will be working with her through the separation process.

After discussion of terminating the disability pension, the injury on duty being resolved and the individual not having ten years of service for a medical disability pension, Mike Safley stated that if the department makes an offer of employment and if the individual can not meet those restrictions, it is then up to the department to take the action to terminate the employment of the employee.

After that clarification from the Legal Department, the Board took no action on item 15.

Dr. Susan Warner reported to the Board that on item 16, the individual has requested to return to work in a non-sworn position.

Jamie Summers, Fire Department, was present.

Mike Kroeger was also present.

Dr. Susan Warner stated that she would like for the individual to work with vocational case management to identify skills, with review in one year.

Jamie Summers, Fire Department, stated that there is not a non-sworn position available in the department.

Jerry Hall moved for approval of the request to return to work in a non-sworn position on item 16, with vocational case management and review in one year. Doug Clariday seconded and the Board approved without objection.

**NEW REQUESTS:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Name** | **Department** | **In Line of Duty (IOD) or Medical Disability** | **Board Action Taken** |
| 1. | Nellie J. Bowman | Health | In Line of Duty | As moved, seconded and approved, this disability pension request was denied. |

### C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and social security referrals) (continued)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 2. | David M. Brown | Water | Medical | As moved, seconded and approved, this disability pension request was approved for two years, (May 2017), with re-exam at that time. |
| 3. | James T. Trotter | Parks | Medical | As moved, seconded and approved, this disability pension request was approved for three months, (August 2015), with re-exam at that time. |
| 4. | Marguerite E. Young | Metropolitan Nashville Public Schools | Medical | As moved, seconded and approved, this disability pension request was approved for two years, (May 2017), with re-exam at that time. |

**REEXAMINATIONS:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Name** | **Department** | **In Line of Duty (IOD) or Medical Disability** | **Recommendation** |
| 5. | Margaret E. Butler | Metropolitan Nashville Public Schools | Medical | As moved, seconded and approved, this disability pension was continued for two months, (July 2015), with re-exam at that time. |
| 6. | Richard L. Honeycutt | Fire | Medical | As moved, seconded and approved, this disability pension was continued for one year, (May 2017), with re-exam at that time. |
| 7. | Piroz E. Omer | Metropolitan Nashville Public Schools | In Line of Duty/**Medical** | As moved, seconded and approved, this individual was placed on the return to work list and assigned vocational case management. |
| 8. | SungJun Park | Police | Medical | As moved, seconded and approved, this disability pension was continued for two years, (May 2017), with re-exam at that time. |
| 9. | William E. Dotson | General Services | In Line of Duty | As moved, seconded and approved, this disability pension re-exam was deferred for one month, (June 2015), with re-exam at that time. |
| 10. | Syretha D. Sessions | Sheriff | Medical | As moved, seconded and approved, this disability pension re-exam was deferred for one month, (June 2015), with re-exam at that time. |

### C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and social security referrals) (continued)

**RETURN TO WORK:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Name** | **Department** | **In Line of Duty (IOD) or Medical Disability** | **Recommendation** |
| 11. | Zachery K. Phillips | Metropolitan Nashville Public Schools | In Line of Duty | As moved, seconded and approved, this individual was placed on the return to work list. |
| 12. | Nicholas Marchese | Sheriff | Medical | As moved, seconded and approved, this individual was placed on the return to work list. |
| 13. | Mary E. Phillips | Metropolitan Nashville Public Schools | Medical | As moved, seconded and approved, this individual was placed on the return to work list. |

**OTHER:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Name** | **Department** | **In Line of Duty (IOD) or Medical Disability** | **Recommendation** |
| 14. | Dorothy E. Cox | General Hospital | Medical | As moved, seconded and approved, this individual was removed from the return to work list and the pension continued for one month, (June 2015), with re-exam at that time. |
| 15. | Janie M. Dabney | Metropolitan Nashville Public Schools | In Line of Duty | No action was taken on this item. |
| 16. | Mark A. Kroeger | Fire | Medical | As moved, seconded and approved, this individual was placed on the return to work list in a non-sworn position with vocational case management. |

**SOCIAL SECURITY REFERRALS:**

Dr. Susan Warner reported to the Board that she concurs with the case management recommendations on the Social Security referrals. Jerry Hall moved for approval of the referrals. Veronica Frazier seconded and the Board approved without objection.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Name** | **Department** | **Review Originated From** | **Case Management Recommendation for Referral** | **CSME Recommendation for Referral** | **Comments** |
| 1 | Cason, Bobby | Public Works | Pension Approval | Yes | Yes | Evaluation |

**D. PENSIONS: (service, disability to service, options elected and survivor)**

B.R. Hall moved for approval of the pensions. Doug Clariday seconded and the Board approved without objection.

###### Service

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Employee | **Department** | **Classification** | **Plan A/B** | Application Date | Estimated Effective Date |
| Pamela DeSoto | Parks | Sergeant | B | 02/05/2015 | 04/16/2015 |

**D. PENSIONS: (service, disability to service, options elected and survivor) (continued)**

###### Service

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Employee | **Department** | **Classification** | **Plan A/B** | Application Date | Estimated Effective Date |
| Carol A. Carver | MNPS | Secretary/Bookkeeper | B | 04/02/2015 | 07/01/2015 |
| Kenneth H. Herring | General Services | Equip Mechanic Leader | B | 04/02/2015 | 07/18/2015 |
| James Madden | Water | Treatment Plant Tech 3 | B | 04/02/2015 | 06/11/2015 |
| Marsha Brown | Police | Police Officer 2 | B | 04/02/2015 | 06/01/2015 |
| John D. Payne Jr. | Fire | Fire Fighter 2 | B | 04/02/2015 | 03/26/2015 |
| Gerald Yuknavage \* | Planning | Planner 1 | A | 04/02/2015 | 06/01/2015 |
| Diantha McLeod | NCAC | Career Coach | B | 04/08/2015 | 04/04/2015 |
| Mark Stromatt | Fire | Fire Captain | B | 04/09/2015 | 04/16/2015 |
| Robert E. Allen Jr. | Police | Sergeant | B | 04/09/2015 | 04/30/2015 |
| Byron E. McMillan | Public Works | Maint & Reair Worker 2 | B | 04/09/2015 | 04/11/2015 |
| Larry D. Poteet | Water | Treatment Plant Shift Operator | B | 04/09/2015 | 05/29/2015 |
| Wilfredo Cepnio | Gen Hospital | Registered Nurse | B | 04/09/2015 | 07/31/2015 |
| Linda A. Brown \* | Gen Hospital | Health Information Spec | B | 04/16/2015 | 06/01/2015 |
| Karl E Roller Jr. | Police | Captain | B | 04/16/2015 | 05/05/2015 |
| Carl Hill | Water | Treatment Plant Tech 2 | B | 04/16/2015 | 05/30/2015 |
| Lee N. Gryll | Water | Info Sys App Analyst 3 | B | 04/16/2015 | 06/01/2015 |
| David White | Fire | Commander | B | 04/16/2015 | 05/02/2015 |
| Reginald D Miller | Police | Police Officer 2 | B | 04/16/2015 | 04/15/2015 |
| Robert E. Cunningham | Fire | Fire Captain | B | 04/16/2015 | 04/21/2015 |
| Beverly D. Moyers | Finance | Finance Officer 2 | B | 04/21/2015 | 05/01/2015 |
| William Summerlin | Police | Sergeant | B | 04/23/2015 | 04/24/2015 |
| Patricia A. Peevey | Health | Office Support Rep 3 | B | 04/23/2015 | 05/30/2015 |
| Elena Arredondo | Gen Hospital | Patient Services Rep | B | 04/23/2015 | 05/01/2015 |
| Barbara Bettikofer | MNPS | Asst- Food Svc | B | 04/23/2015 | 05/28/2015 |
| Sandra E. Dawson | MAC | Food Service Worker 2 | B | 04/19/2015 | 04/10/2015 |
| Richard L. McKinney \* | ITS | Chief Info Officer | B | 04/27/2015 | 06/01/2015 |
| Matthew Weaver \* | Police | Police Officer 2 | B | 04/22/2015 | 10/01/2014 |

###### \*deferred benefit

###### Disability to service

|  |  |  |  |
| --- | --- | --- | --- |
| Employee | **Department** | **Plan A/B** | Effective Date of Conversion |
| Beverly Shelley | Health | A | 04/01/2015 |
| Marcia Turntine | General Hospital | B | 04/01/2015 |
| Yolanda J Hale | Bordeaux | B | 04/01/2015 |
| Daniel Kephart | Fire | B | 04/01/2015 |

###### Options Elected

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Employee | **Department** | **Pension Type** | **Plan A/B** | Effective Date | Option | DROP Election |
| Bissell, Charles W | Information Technology Service | Service | B | 3/7/2015 | Option E |  |
| Breen Jr, William J. | Criminal Court Clerk | Service | B | 4/4/2015 | Option D |  |
| Craighead, Brenda J | MNPS | Service | B | 8/1/2014 | Normal |  |
| Crouch, Evelyn D | MNPS | Service | B | 3/14/2015 | Option F |  |
| Everhart, Sandra P | Health | Early Service | B | 3/14/2015 | Option F |  |
| Finch, James M. | Public Works | Service | B | 4/1/2015 | Option F |  |
| Hammond, James B | Water Services | Service | A | 10/1/2014 | Option A |  |
| Inman, Patricia | MNPS | Service | B | 4/1/2015 | Option F |  |
| Justice, Martha R. | Water Services | Service | B | 3/14/2015 | Option F |  |

**D. PENSIONS: (service, disability to service, options elected and survivor) (continued)**

###### Options Elected

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Employee | **Department** | **Pension Type** | | **Plan A/B** | Effective Date | Option | DROP Election |
| Kenner, James L | Water Services | Service | | B | 3/3/2015 | Option F | 2 |
| Payne Jr, John D | Fire | P&F Service | | B | 3/26/2015 | Normal |  |
| Russell, David | MNPS | Early Service | | B | 3/28/2015 | Option C |  |
| Thompson, Pamela D. | Police | Service | | B | 3/24/2015 | Option A | 2 |
| Waddell Jr, H Hugh | MNPS | Early Service | | B | 3/27/2015 | Normal |  |
| Woodard, Rebecca | State Trial Courts | Service | | B | 3/28/2015 | Normal |  |
| **Key Codes** | |
| **Options** | | **Drop Elections** |
| Normal Form - life annuity, no payments guaranteed | | 1 - 1 year drop |
| Option A - Joint and 100% to Survivor | | 2 - 2 year drop |
| Option B - Joint and 50% to Survivor | | 3 - 3 year drop |
| Option C - Level Social Security option | |  |
| Option D - Life Income, 120 payments guaranteed | |  |
| Option E - Joint and 100% to Survivor with popup | |  |
| Option F - Joint and 50% to Survivor with popup | |  |

###### Survivor

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Employee Name** | **Department** | **Survivor Name** | **Plan Membership** | Effective Date |
| Silas Allen Jr. | Sheriff | Deloris Allen | A | 04/11/2015 |
| Phillip K. Woodard | Gen Svc- OFM | Cindy Cannon | B | 04/09/2015 |
| Robert H. Taylor | Police | Rebecca Taylor | Closed | 04/05/2015 |
| Jane Hetterman | Health | Robert Hobbs | B | 04/20/2015 |
| Randy Breedlove | Water | Pamela Breedlove | B | 04/22/2015 |
| William Crow | Fire | Carol Crow | B | 04/28/2015 |

## BENEFIT BOARD ITEMS

The Human Resources staff submitted the following for the Board’s consideration and appropriate action:

1. Pharmaceutical Litigation.

Christina Hickey reported to the Board that the Legal Department will be filing a resolution and contract with the Metropolitan Clerk so the Council can authorize the Mayor to employ Lieff Cabraser Heimann & Berstein, LLP as special counsel for the Metropolitan Government. She stated that Lieff Cabraser Heimann & Berstein, LLP would be employed on a contingency fee basis to investigate whether the Metropolitan Government should pursue litigation against any brand-names (patent) pharmaceutical manufacturing companies, and perhaps also ostensible rival generic manufacturing companies, that have illegally colluded in violation of the antitrust laws or other trade laws to artificially raise the cost of drugs purchased by the Metropolitan Government’s health care plans.

Jim Charles, Legal Department, John Spraggins and Mark Challos, Lieff Cabraser Heimann & Berstein were present.

Jim Charles reviewed the request for qualifications process and requested that the Board recommend approval to the Council. He also noted that the Legal Department may now start reviewing class action notices that have come to the Board.

There was some discussion of whether or not employees will have any recourse if they have been forced to purchase name brand instead of generic.

1. Pharmaceutical Litigation. (continued)

There was also some discussion of who pays for the services/liabilities (contracting fees) and whether or not any funds recovered will go to the medical trust fund.

After some discussion of adding wording to the resolution that will address where recouped funds will be placed (medical trust fund), how broad or the scope of the contract and the term of the contract, Richard Riebeling moved for approval of the resolution and adding the language regarding any earnings returned to Metro be returned to the medical trust fund. Tom Curtis seconded and the Board approved without objection.

1. Cost of living adjustments for closed plans.

Christina Hickey reported to the Board that this cost of living adjustment is pursuant to Resolution No. RS2001-659 and applies to the plans references in Section 2 of the resolution – the Former City of Nashville Pension Plan and the Former Davidson County Pension Plan. She stated this increase is built into the Metro Code and cannot be adjusted without a change to the Code. As a result of the 0.07% decrease in the Consumer Price Index, no cost of living adjustment increase should be granted to retirees eligible to receive a cost of living increase under the closed plans beginning July 1, 2015.

Kevin Sullivan, Bryan, Pendleton, Swats & McAllister was present to address any questions.

The Board took no action on this item.

1. Correspondence:
2. Utilization report from Blue Cross Blue Shield.
3. Utilization report from CIGNA.
4. Utilization report from Alternative Service Concepts.
5. Cigna Choice Fund correspondence – Network change - Advanced Diagnostic Imaging TN.

Items 3.-a. through 3.-d. were for information only and no action was required.

Christina Hickey made note of item 3.-d.

1. Reports for your information:
2. Return to work.
3. Social Security approvals.
4. Refund of pension contributions. (none to report)
5. Repayment of pension contributions.
6. Non-compliant disability pensioners. (none to report)
7. Pending litigations. (reported quarterly)
8. Denial log from Alternative Service Concepts.

Items 4.-a. through 4.-d. were for information only and no action was required.

1. Late item(s):

There were no late items reported at the meeting.

Tom Curtis noted that Fadi Bousamra, Treasury, was featured in an article in Institutional Investor and will be receiving an award for chief investment officer, (CIO), of the year for small investment plans.

With nothing further presented, the meeting adjourned accordingly.

ATTEST: APPROVED:

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Veronica T. Frazier, Director Edna J. Jones, Chair

#### Human Resources Employee Benefit Board