

## **MINUTES**

### **METROPOLITAN EMPLOYEE BENEFIT BOARD**

**October 3, 2017**

The Metropolitan Employee Benefit Board met for their regularly scheduled meeting on Tuesday, October 3, 2017 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; Vice Chair: Christine Bradley; Members: Stephanie Bailey, \*G. Thomas Curtis, B.R. Hall, Sr., Jerry Hall, Shannon B. Hall, and W. Todd Henry.

Member Talia Lomax-O'dneal was unable to be present.

Others present: Christina Hickey, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Gill Wright, 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 October 3, 2017. With no corrections, nothing further was noted and Jerry Hall moved for approval. Christine Bradley 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. Gill Wright, Civil Service Medical Examiner, (CSME), and Claire Cobb, CSME Assistant, reviewed the disability pensions with the Board.

The employee was present for item 1.

Christy James, Police Department, was present.

Christina Hickey noted that additional information related to this item was handed out.

Dr. Gill Wright reported to the Board that he recommends denial of the disability pension new request, item 1. He stated that it appears that the employee has not been released back to full duty, however, he has declined working light duty when his department has offered and indicated that they can accommodate him. He also stated that there have been previous concerns regarding the use of narcotics and his treating physician has stated that he no longer needs the medication.

Edna Jones noted that the additional information that was handed out states that he can work light or modified duty.

The employee was present. He stated that he realizes there is an issue with whether or not he requested light duty or whether it was requested for him or if he can even work light duty with accommodations. He discussed the effects of the medications he takes. He also stated he has filed a grievance with HR.

Dr. Gill Wright reviewed the medications the employee is currently taking.

\*Denotes the arrival of Tom Curtis.

Todd Henry asked the individual whether or not he wanted to work light duty.

The employee stated he does not feel that he can based on the medications he is currently taking. The employee stated that he has not requested light duty but he has let the department know he is willing to work

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light duty as long as his accommodations are being met. He stated that currently he has light duty days available, however, he hopes that through this grievance he will recover those in line of duty leave days. He further stated that if the department can accommodate his doctor's orders, he will work. He stated that when he filled out the last 354 form he said he put on the form that he is not requesting light duty, but he does acknowledge the policy and signed the form.

There was some discussion of the Civil Service rule that states if light duty is offered by the department and it is refused by the employee, they will not receive in line of duty leave.

B.R. Hall asked the employee whether or not he is able to do the duties of a police officer and the employee stated no he can't.

B.R. Hall also questioned whether or not Dr. Gill Wright is aware of what the Code states regarding disability benefits for a police officer.

Dr. Gill Wright stated that he is fully aware of what the Code states regarding disability for a police officer and noted that this could potentially set a precedent regarding how light duty is accommodated.

Shannon Hall stated that there needs to be some clarification from the department regarding the injury on duty leave and light duty.

Christy James, Police Department, stated that the last 354 form has been sent through the chain of command to be processed to see if the light duty can be accommodated.

There was discussion regarding how long the employee has been without pay, being offered injury on duty leave and if the department can accommodate in lieu of injury on duty leave they come in and do light duty.

Christy James stated that there were some issues on the HR side regarding his status and he went into an unpaid status the end of August.

Lieutenant William Watkins, Police Department, stated that he was unable to work from May 22<sup>nd</sup> until June 7<sup>th</sup>, when he was released to light duty with different restrictions. He stated since that time he has communicated with him several times regarding the injury on duty light duty. He stated that there are notes in the file regarding the employee refusing to sign the light duty form with the latest one being in September. He also stated that the employee could have returned to light duty as early as the middle of June.

There was some discussion that it's the department's position that they can accommodate light duty and he has refused to sign paperwork in order to start that.

There was also some discussion regarding the narcotics, (which is no longer an issue), and the employee being fit for duty.

Nicki Eke, Legal Department, reviewed the provisions in the Code that are relevant to this particular case. She stated that one section states that disability when applied to a police officer shall mean the inability in all capacity to perform the duties of a police officer. She stated that section 3.29.050b states that no pension shall be due or payable until all sick leave, salary continuation or vacation benefits of any kind which may then be provided to the employee by Metro are exhausted. She stated that even if someone is not able to perform the duties of a police officer and there is leave available to that person, like injury on duty leave that leave needs to be exhausted before pension benefits can commence. She stated that under Civil Service rules there is injury on duty paid leave available under these circumstances. She stated that the rule says that if the appointing authority determines after review of the medical information that the employee is capable of performing light duty work, and the employee refuses an offer of light duty by his department, the department shall cease paid injury on duty leave. She stated that if no light duty is offered by the department the employee will continue to receive paid injury on duty leave in accordance with the Civil Service rule. She further stated that the key here is has this employee been offered light duty by his department and has he refused that light duty. She stated that if he has not been offered light duty then there is no other leave available to him under the Civil Service rules. She stated that if he has been offered light duty and he refused that light duty and is unable to perform the duties of

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a police officer then the Board can still approve a pension with the qualification that no pension payment can commence until that paid leave that's available under the Civil Service rule is exhausted. Ms. Eke stated that the key is has this employee been offered light duty and has the employee refused.

William Watkins informed the Board that he reviewed this process with the employee. He stated that he discussed his restrictions and reviewed the Civil Service rules regarding injury on duty leave and light duty. Mr. Watkins stated that the employee refused to sign and submit the form to work light duty even though he can be accommodated.

The employee stated that he is not requesting to work light duty. He stated that he has issues with working with a keyboard. He also stated that the policy states that the commander can request light duty for the employee and to his knowledge that has not been done. He also stated that his request is for a disability pension based on not being able to perform the duties of a police officer and not for light duty.

There was some discussion of the incident that caused the injury, treating physicians and his treatment.

There was discussion that if the injury on duty disability pension is approved, he would have to run out his injury on duty leave.

The employee stated that he has said he can work light duty as long as he can take his medications and his accommodations and restrictions can be met. He also stated that in his grievance he is trying to get his vacation days and unpaid status time converted to injury on duty leave.

The Board further discussed that the offer of light duty has to be made by the department and the employee has to turn down that offer. There was also some discussion of whether or not the department was able to accommodate him when he was first released to light duty and still taking the narcotic.

Christy James and William Watkins confirmed that he could have been accommodated.

The employee further discussed emails from the department regarding light duty, the department being obligated to accommodate him and his grievance.

The employee was advised that this is not the proper venue for discussing any type of grievance regarding leave.

There was some discussion regarding deferring this request and obtaining clarification on whether or not the employee was offered light duty and if it was accepted or declined by the employee.

The employee requested that the Board vote on the request today.

The employee was informed that once the Board makes a determination there are different appeal rights that come into play that could pose challenges or take it out of this venue.

Shannon Hall moved to defer this request for a disability pension for one month requesting the department officially go on record with the employee indicating whether they can or can not offer light duty with any applicable restrictions. B.R. Hall seconded.

After clarification that the intent of this motion is to have clear communications between both parties (the department and the employee) regarding the offer of light duty after evaluating the current set of restrictions, a vote was taken on the motion to defer this request for a disability pension for one month and the Board approved with Stephanie Bailey opposed.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexaminations, items 2 through 8 for the length of time as recommended. Jerry Hall moved for approval of the recommendation to continue the disability pension reexaminations, items 2 through 8 for the length of time as recommended. Tom Curtis seconded and the Board approved without objection.

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

Dr. Gill Wright reported to the Board that on item 9, the individual is requesting that approval of the disability pension be rescinded. Dr. Wright stated the Civil Service rules have changed and he now meets the requirements and has returned to work. Tom Curtis moved for approval of the request to rescind the approval of a disability pension on item 9. Jerry Hall seconded.

Christy James, Police Department, informed the Board that he has returned to work.

A vote was taken on the motion on item 9 to rescind the approval of a disability pension and the Board approved without objection.

**NEW REQUESTS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty (IOD) or Medical Disability</b>	<b>Board Action Taken</b>
1.	Johnny R. Crumby, Jr.	Police	In Line of Duty	As moved, seconded and approved, this disability pension request was deferred.

**REEXAMINATIONS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty (IOD) or Medical Disability</b>	<b>Recommendation</b>
2.	Cynthia D. Clopton	Metropolitan Nashville Public Schools	In Line of Duty	As moved, seconded and approved, this disability pension was continued for two months, December 2017, with re-exam at that time.
3.	Jeremy M. Davis	Fire	In Line of Duty	As moved, seconded and approved, this disability pension was continued without stipulation of scheduled re-exam at that time.
4.	Mia T. Gordon	Health	Medical	As moved, seconded and approved, this disability pension was continued for four months, (February 2018), with re-exam at that time.
5.	John M. Harrell	Police	Medical	As moved, seconded and approved, this disability pension was continued without stipulation of scheduled re-exam at that time.
6.	Jerry R. Hudgens	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued without stipulation of scheduled re-exam at that time.
7.	Steven D. Ragland	Public Works	Medical	As moved, seconded and approved, this disability pension was continued for six months, (April 2018), with re-exam at that time.

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**OTHER:**

	Name	Department	In Line of Duty (IOD) or Medical Disability	Recommendation
9.	Michael L. Schlegel	Police	Medical	As moved, seconded and approved, approval of a disability pension was rescinded and the individual was returned to work.

**SOCIAL SECURITY REFERRALS:**

Dr. Gill Wright reported to the Board that CSME's office concurs with the case management recommendations on the Social Security referrals. Christine Bradley moved for approval of the referrals. Tom Curtis seconded and the Board approved without objection.

Item	Name	Department	Review Originated From	Case Management Recommendation for Referral	CSME Recommendation for Referral	Comments
1	Hayes, Eric	Police	Pension Approval	No	No	CI does not meet SSDI disability, vocational or durational guidelines.

**D. PENSIONS: (service, disability to service, options elected, qualified domestic relations orders, (QDRO's), and survivor)**

Shannon Hall moved for approval of the pensions. Jerry Hall seconded and the Board approved without objection.

**Service**

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Paulette Brown *	MNPS	DRIVER - BUS	B	09/20/2017	11/01/2017
Hugh Garrison	Water Services	Environmental Lab Supt	B	09/06/2017	09/22/2017
Toby Culp	MNPS	ED ASST - EX ED CBIP	B	09/06/2017	10/21/2017
Ronnie Pugh	Public Library	Library Mgr 1	B	08/30/2017	10/01/2017
Lou Edwards	Planning Commission	Admin Asst	B	09/13/2017	10/01/2017
Julia Burns	Public Library	Librarian 2	B	09/20/2017	11/01/2017
Patricia Day	MNPS	CASHIER - FOOD SVC	B	09/06/2017	09/01/2017
Viva Farlow	Public Works	Parking Patrol Officer 1	B	09/08/2017	09/09/2017
Guindolyn Tyus	NCAC	Career Coach-NCAC	B	09/06/2017	12/30/2017
Katrina Broughton-Stokes	General Hospital	Pre-Admission Testing Nurse	B	09/20/2017	09/30/2017
Mary Gooch	MNPS	ASST - FOOD SVC	B	09/20/2017	10/06/2017
Kevin Meadors	Fire	Fire Engineer	B	09/06/2017	09/17/2017
Donna Barker	Health	Public Health Nurse 1	B	09/20/2017	10/06/2017
Steven Buchanan	Sheriff	Security Officer 1	B	09/13/2017	09/21/2017
Katherine Mumphrey	Health	Program Spec 1	B	09/13/2017	10/07/2017
Marsha Banda	Health	Administrative Asst - Health	B	09/13/2017	09/30/2017
John Henry	Police	Police Sergeant	B	08/30/2017	11/01/2017
Madelyn Burford	Police	Police Operations Supv	B	08/30/2017	10/20/2017
Regina Stephens	Police	Police Sergeant	B	09/06/2017	10/07/2017
Margie Davis	Juvenile Court	Probation Officer 3	B	09/13/2017	11/03/2017
Robert Epley *	MNPS	SUPV - DRIVER	B	08/30/2017	10/01/2017
Jacquelyn Korley *	MNPS	ASST - FOOD SVC	B	09/13/2017	10/01/2017
James Ayers *	MNPS	WORKER - CUSTODIAL	B	09/20/2017	11/01/2017

**D. PENSIONS: (service, disability to service, options elected, qualified domestic relations orders, (QDRO's), and survivor)**

**Service (continued)**

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Marilyn Beck *	General Hospital	Payroll Specialist	B	08/30/2017	11/01/2017
Deborah Hynes *	Public Library	Library Mgr 2	B	09/18/2017	11/01/2017
Charles Malcolm Sr *	General Services	Manager of Fleet Operations	B	08/22/2017	10/01/2017
Vickie Mccord *	Bordeaux Long Term Care	Licensed Practical Nurse	B	09/06/2017	11/01/2017
Michael Deharde *	Sheriff	Office Support Rep 2	B	08/31/2017	09/01/2017
Mahut Muhammet *	MNPS	WORKER - CUSTODIAL	B	09/25/2017	02/01/2015

\* Deferred Benefit

**Disability to service**

Employee	Department	Plan A/B	Effective Date of Conversion
Terrie Moran	State Trial Courts	B	09/01/2017
Charles White	MNPS	B	09/01/2017
Michael Harris	Fire	B	09/01/2017
David Anderson	Police	B	08/01/2017

**Options Elected**

Employee	Department	Pension Type	Plan A/B	Effective Date	Option	Drop Election
Mary Green	Bordeaux Long Term Care	Service With Option	B	09/01/2017	Option E	
Dianne Carney	MNPS	Service Without Option	B	08/07/2017	Normal	
Judith Alred	MNPS	Service Without Option	B	08/07/2017	Normal	
Cathy Bader	MNPS	Early Service With Option	B	07/22/2017	Option F	
Joyce Vaughn	MNPS	Service With Option	B	08/07/2017	Option F	2
Bruce Jackson	Metro Action Commission	Early Service Without Option	B	06/20/2017	Normal	
Leslie Keller	Parks	Service Without Option	B	08/15/2017	Normal	
Maria Carter	Sheriff	Early Service Without Option	B	08/26/2017	Normal	
Andrea Davis	Health	Early Service With Option	B	08/17/2017	Option E	
Carmina Howell	Codes Administration	Early Service Without Option	B	08/26/2017	Normal	
Glenda Gregory	MNPS	Early Service Without Option	B	08/04/2017	Normal	
Ronnie Crow	General Sessions Court	Service With Option	B	08/01/2017	Option E	
Donna Neely	Sheriff	Service Without Option	B	08/13/2017	Normal	
Freddie Gipson	Airport Authority	Service With Option	B	08/12/2017	Option B	
Erma Evans	MNPS	Service Without Option	B	08/07/2017	Normal	
Robert Cogdill	Sheriff	P&F Service Pen With Option	B	07/31/2017	Option A	
Leslie Robeson	Health	Early Service Without Option	B	08/11/2017	Normal	
Robert Searcy Jr	Fire	P&F Service Pen With Option	B	08/31/2017	Option E	3
Yvonne Ogren	Historical Commission	Early Service Without Option	B	08/05/2017	Normal	
Daryl Houston	Fire	P&F Service Pen Without Option	B	08/07/2017	Normal	3
Mellnee Ransom	Sheriff	Early Service Without Option	B	09/01/2026	Option C	
Donald Young	Fire	P&F Service Pen With Option	B	08/30/2017	Option A	
Paul Shrum Jr	Police	Service With Option	B	08/16/2017	Option E	3
Monica Shacklett	Assessor of Property	Service With Option	B	08/19/2017	Option F	
Joseph Ash	Water Services	Service With Option	B	08/19/2017	Option D	3
Julian Moore Jr	Police	Early Service Without Option	B	08/10/2017	Normal	
Francis Young	MNPS	Early Service With Option	B	09/01/2017	Option A	
Harinder Ghumman	MNPS	Service Without Option	B	08/01/2017	Option D	
Angelia Lequire	Caring for Children	Service With Option	B	05/01/2017	Option A	
Marsha Maga	Bordeaux Long Term Care	Service Without Option	B	09/01/2017	Normal	
Jim Bellar	NCAC	Service With Option	B	09/01/2017	Option A	

**Key Codes**

<b>Options</b>	
Normal Life Annuity	No Option Elected
Option A Joint & Survivor	100% to Surviving Beneficiary
Option B Joint & Survivor	50% to Surviving Beneficiary
Option C Social Security	
Option D 120 Payments	Certain and Life
Option E Joint & Survivor	100% to Surviving Beneficiary with Pop-Up Feature
Option F Joint & Survivor	50% to Surviving Beneficiary with Pop-Up Feature

**Drop Elections**

1	1 Year Drop
2	2 Year Drop
3	3 Year Drop

**D. PENSIONS: (service, disability to service, options elected, qualified domestic relations orders, (QDRO's), and survivor)**

**QDRO – None to report**

**Survivor**

Employee	Department	Survivor Name	Plan A/B	Effective Date
Thomas Raines	Parks	Frances Hulan-Raines	B	09/10/2017
Anna Alexander	Circuit Ct	Owen Alexander	A	08/24/2017
James Wade	Metro Action Commission	Carol Wade	B	09/03/2017
Wilbur Wright	Unknown	Beverly Wright	Closed	08/28/2017
Sandra Myers	General Hospital	Larry Myers Sr	B	09/17/2017
Raymond Crutcher	Water Services	Nannie Crutcher	B	09/02/2017
Arthur Mcneese	Fire	Bettie Mcneese	B	08/30/2017
Larry Waggoner	Police	Sheri Waggoner	B	09/03/2017

**BENEFIT BOARD ITEMS**

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

1. In Line of Duty Committee report.

Christina Hickey reported to the Board that the In Line of Duty Committee met on August 22, 2017 to deliberate on 6 IOD medical care requests. She stated that item 5, the in line of duty medical care appeal, - employee from the Police Department, was deferred for a full Board vote from the September 5<sup>th</sup> Board meeting. She stated the there was no recommendation to the full Board by the Committee. She also noted that additional information has been presented today by the employee.

Vickie Hampton and Tracy Patterson, Alternative Service Concepts, (ASC), were present.

The employee was also present.

Committee Chair Jerry Hall asked if the new information had any bearing on the original recommendation from ASC and if it changed it.

Tracy Patterson stated that the decision was based on the treating physician not being able to relate this to work. She stated that the letter provided today is not from the authorized treating physician.

There was some discussion regarding who is the treating physician, the letter is from the physician that performed the surgery under his personal health insurance, the statement that the physician can't say at 100% that it is work related and that he makes no mention of the prior personal surgeries.

Tracy Patterson also informed the Board that the employee did not file a claim until after he had the surgery. She also stated that according to the program, the employer is not responsible for anything prior to the reporting of the injury to the employer.

The employee informed the Board that he has three documented 101's on file from three different knee injuries. He stated that he did not seek treatment for all of them, however, after his last visit with the surgeon, he asked for clarification as to whether or not it is work related.

There was discussion regarding whether or not the physician can say with 100% certainty that this is related and other conditions such as arthritis.

Shannon Hall stated that if this is covered it would be prospectively and the injury on duty programs treating physicians would be utilized. She asked the employee if he understands that and he responded yes.

Todd Henry moved for approval of item 5, the in line of duty medical care – employee from the Police Department. B.R. Hall seconded and the Board approved with Edna Jones opposed.

2. Correspondence:

- a. Utilization report from Blue Cross Blue Shield.
- b. Utilization report from CIGNA.

Items 2.-a. through 2.-b. were for information only and no action was required.

3. Reports for your information:

- a. Return to work. (none to report)
- b. Social Security approvals.
- c. Refund of pension contributions. (none to report)
- d. Repayment of pension contributions.
- e. Denial log from Alternative Service Concepts.
- f. Benefit Board budget reports.

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

4. Late item(s):

There were no late items reported at the meeting.

With nothing further presented, the meeting adjourned at 10:17 a.m.

ATTEST:

APPROVED:

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**Shannon B. Hall, Director**  
**Human Resources**

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**Edna J. Jones, Chair**  
**Employee Benefit Board**