

MINUTES

METROPOLITAN EMPLOYEE BENEFIT BOARD

August 7, 2018

The Metropolitan Employee Benefit Board met for their regularly scheduled meeting on Tuesday, August 7, 2018 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, W. Todd Henry, Talia Lomax-O'dneal and Stacey Rucker.

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 July 3, 2018. With one correction, 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.

*Denotes the arrival of Shannon B. Hall.

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.

Dr. Gill Wright reported to the Board that he recommends approval of the disability pension new requests, items 1 through 3, for the length of time as recommended. Stephanie Bailey moved for approval of the recommendation to approve the disability pension new requests, items 1 through 3 for the length of time as recommended. Jerry Hall seconded and the Board approved without objection.

Dr. Gill Wright reported to the Board that he recommends denial of the disability pension new request, item 4.

**Denotes the arrival of Tom Curtis.

The employee was present.

James Gray, Parks, was present.

The employee addressed the Board regarding his injury and returning to work.

James Gray addressed the Board regarding the basis for Dr. Wright's denial that it is not work related and the department has considered this as injury on duty.

Dr. Gill Wright discussed the basis for his recommendation to deny the request. He stated that according to the treating physician's notes the current problem is related to a non work related prior surgery.

There was some discussion regarding other positions in the department for the individual, accommodations and light duty.

Stephanie Bailey moved for approval of the recommendation to deny the disability pension new request, item 4. Talia Lomax-O'dneal seconded.

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

It was noted that the department work with Human Resources to explore taking a request for extending his injury on duty leave to the Civil Service Commission in addition to finding some light duty for the individual.

A vote was taken on the motion on item 4 to deny the request for a disability pension and the Board approved with B.R. Hall opposed.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexaminations, items 5 through 12 for the length of time as recommended with case management services where noted. Christine Bradley moved for approval of the recommendation to continue the disability pension reexaminations, items 5 through 12 for the length of time as recommended with case management services where noted.

Stephanie Bailey requested to take the re-exams individually and the maker of the motion agreed.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 5 for the length of time as recommended. Jerry Hall moved for approval of the recommendation to continue the disability pension reexamination, item 5 for the length of time as recommended. Talia Lomax-O'dneal seconded and the Board approved with Stephanie Bailey abstaining.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 6 for the length of time as recommended. Tom Curtis moved for approval of the recommendation to continue the disability pension reexamination, item 6 for the length of time as recommended. Jerry Hall seconded and the Board approved with Stephanie Bailey opposed.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 7 for the length of time as recommended. Christine Bradley moved for approval of the recommendation to continue the disability pension reexamination, item 7 through for the length of time as recommended. Jerry Hall seconded and the Board approved without objection.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 8 for the length of time as recommended. Tom Curtis moved for approval of the recommendation to continue the disability pension reexamination, item 8 for the length of time as recommended. Talia Lomax-O'dneal seconded and the Board approved with Stephanie Bailey opposed.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 9 for the length of time as recommended. Stephanie Bailey moved for approval of the recommendation to continue the disability pension reexamination, item 9 for the length of time as recommended. Tom Curtis seconded and the Board approved without objection.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 10 for the length of time as recommended. Tom Curtis moved for approval of the recommendation to continue the disability pension reexamination, item 10 for the length of time as recommended. Jerry Hall seconded and the Board approved with Stephanie Bailey abstaining.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 11 for the length of time as recommended. Jerry Hall moved for approval of the recommendation to continue the disability pension reexamination, item 11 for the length of time as recommended. Stacey Rucker seconded and the Board approved with Stephanie Bailey opposed and Talia Lomax-O'dneal abstaining.

Dr. Gill Wright reported to the Board that he recommends approval for continuing the disability pension reexamination, item 12 for the length of time as recommended with case management. Jerry Hall moved for approval of the recommendation to continue the disability pension reexamination, item 12 for the length of time as recommended. Tom Curtis seconded and the Board approved with B.R. Hall opposed.

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

Dr. Gill Wright reported to the Board that on items 13 and 14, he requests a deferral for one month. Shannon Hall moved for approval of the request to defer items 13 and 14 for one month. Jerry Hall seconded and the Board approved without objection.

On item 15, Dr. Gill Wright reported to the Board that he recommends approval of return to work.

Charles Boddie, Public Works, stated the department is ready to return the individual to work.

Jerry Hall moved for approval of the recommendation of return to work on item 15. Christine Bradley seconded and the Board approved without objection.

Dr. Gill Wright reported to the Board that on item 16 he recommends approval of the request to return to work in a non-sworn position in order to pursue other positions within Metro. He stated that the individual made this request as he is not able to return to work in a sworn position.

Todd Henry moved to deny the recommendation/request of return to work in a non-sworn position on item 16. Stephanie Bailey seconded.

Sue Bibb, Police Department, was present. She stated that the individual has requested not to return to work in the Police Department. She also stated that with his restrictions they would not have a position.

The Board discussed the individual being able to apply for other positions and his ability to get a job that could be supplemented and whether or not offering vocational case management would be helpful.

A vote was taken on the motion to deny the recommendation/request of return to work in a non-sworn position on item 16 and failed with Jerry Hall, B.R. Hall and Stacey Rucker in favor and Edna Jones, Christine Bradley, Tom Curtis, Stephanie Bailey and Shannon Hall opposed and Talia Lomax-O'dneal abstaining.

Jerry Hall moved for approval of the recommendation/request of return to work in a non-sworn position on item 16. Stacey Rucker seconded.

There was clarification that the employee made the request and adding an approval of vocational case management to the motion.

A vote was taken on the motion on item 16 to return the individual to work in a non-sworn position with vocational case management for 6 months and the Board approved with Edna Jones, Christine Bradley, Shannon Hall, Jerry Hall, B.R. Hall and Stacey Rucker in favor and Tom Curtis, Stephanie Bailey, Talia Lomax-O'dneal and Todd Henry opposed.

On the late item, Dr. Gill Wright reported to the Board that he recommends a return to work with restrictions and a salary supplement.

Byron Grizzle, Sheriff's Office, stated that they are ready to return the individual to work and can accommodate the restrictions.

Jerry Hall moved for approval of the late item. B.R. Hall seconded and the Board approved without objection.

NEW REQUESTS:

	Name	Department	In Line of Duty (IOD) or Medical Disability	Board Action Taken
1.	Sherron B. Chunn	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension request was approved for two months, (October 2018), with re-exam at that time.

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

NEW REQUESTS:

	Name	Department	In Line of Duty (IOD) or Medical Disability	Board Action Taken
2.	Sherrie R. Davids	State Trial Courts	Medical	As moved, seconded and approved, this disability pension request was approved for three months, (November 2018), with re-exam at that time.
3.	Steven J. Lavigne	Social Services	Medical	As moved, seconded and approved, this disability pension request was approved for six months, (February 2019), with re-exam at that time.
4.	Patrick A. Clark	Parks	In Line of Duty	As moved, seconded and approved, this disability pension request was denied.

REEXAMINATIONS:

	Name	Department	In Line of Duty (IOD) or Medical Disability	Recommendation
5.	Christopher D. Allgood	Sheriff	Medical	As moved, seconded and approved, this disability pension was continued for two years, (August 2020), with re-exam at that time.
6.	Cynthia D. Clopton	Metropolitan Nashville Public Schools	In Line of Duty	As moved, seconded and approved, this disability pension was continued for one year, (August 2019), with re-exam at that time.
7.	Monica S. Copeland	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued for one year, (August 2019), with re-exam at that time.
8.	Quinta D. Sanders	Metro Action Commission	Medical	As moved, seconded and approved, this disability pension was continued for seven months, (March 2019), with re-exam at that time.
9.	Melinda F. Tankersley	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued for two years, (August 2020), with re-exam at that time.
10.	Lawrence Taylor, Jr.	Police	Medical	As moved, seconded and approved, this disability pension was continued for two years, (August 2020), with re-exam at that time.
11.	David M. Tippitt	Sheriff	Medical	As moved, seconded and approved, this disability pension was continued for two months, (October 2018), with re-exam at that time.

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

REEXAMINATIONS:

	Name	Department	In Line of Duty (IOD) or Medical Disability	Recommendation
12.	Richard S. Uselton	Fire	Medical	As moved, seconded and approved, this disability pension was continued with vocational case management, for seven months, (March 2019), with re-exam at that time.
13.	Linda M. Cook	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this item was deferred for one month, (September 2018), with re-exam at that time.
14.	Dorothy E. Cox	General Hospital	Medical	As moved, seconded and approved, this item was deferred or one month, (September 2018), with re-exam at that time.

RETURN TO WORK:

	Name	Department	In Line of Duty (IOD) or Medical Disability	Recommendation
15.	Eric D. Forrest	Public Works	In Line of Duty	As moved, seconded and approved, this individual was returned to work.
16.	Richard T. Foley, III	Police	Medical	As moved, seconded and approved, this return to work request was approved for a non-sworn position with vocational case management.

NEW REQUESTS – LATE ITEM

	Name	Department	In Line of Duty (IOD) or Medical Disability	Recommendation
1.	Richard M. Middleton	Sheriff	In Line of Duty	As moved, seconded and approved, this individual was returned to work with a salary supplement.

SOCIAL SECURITY REFERRALS:

There were no recommendations on the referrals.

Item	Name	Department	Review Originated From	Referral Recommendation		Comments
				Case Management	CSME	
1	Crenshaw, Timothy L.	Water	Pension Approval	No	No	Does not meet SSA guidelines
2	Khalaf, Youza R.	MNPS	Pension Approval	No	No	Younger Worker, does not meet SSA guidelines
3	Pearce, James K.	Police	Pension Approval	No	No	Younger Worker, does not meet SSA guidelines

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

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

Service

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Susan Dulaney *	Bordeaux Long Term Care	Nursing Svc Asst Dir	B	07/16/2018	02/01/2018
Perita Bailey	MNPS	ED ASST - EX ED PRE-K	B	07/25/2018	08/07/2018
Ronnie Blea	Fire	Fire Captain	B	07/11/2018	07/16/2018
Herbert Kajihara	Police	Police Officer 2	B	07/18/2018	09/22/2018
Donna Darks	MNPS	MONITOR - SCHOOL BUS	B	06/13/2018	05/25/2018
Russell Barr	Police	Police Officer 2	B	06/27/2018	07/07/2018
Janice Reed	Health	Home Economist	B	07/18/2018	08/10/2018
Lee Cheese	MNPS	ED ASST - EX ED PRE-K	B	07/25/2018	08/07/2018
Ruby Smith	MNPS	ASST - FOOD SVC	B	07/25/2018	08/07/2018
Barbara Steele	MNPS	DRIVER - BUS	B	07/16/2018	08/07/2018
Judy Adams	MNPS	DRIVER - BUS	B	06/27/2018	08/07/2018
Dianne Petersen-Jeske	MNPS	INTERPRETER - SIGN LANGUAGE	B	07/11/2018	08/07/2018
Rosia Powell	MNPS	ED ASST - EX ED PRE-K	B	06/27/2018	08/07/2018
Betty Whiteside	MNPS	ADMIN - RECORDS SCH FIN PAY 11	B	07/18/2018	08/01/2018
George Stephens	MNPS	TECH - FIRE EXTINGUISHER	B	07/18/2018	08/03/2018
Paul Luna	MNPS	SKILL LABORER - CARPENTRY SR	B	07/11/2018	07/28/2018
Bobby Wilson	Water Services	Water Maint Tech 3	B	07/11/2018	07/14/2018
Anthony Lipscomb	General Sessions Court	Probation Officer 2	B	07/25/2018	09/01/2018
Faye Shepherd	Parks	Admin Asst	B	07/11/2018	07/19/2018
Barbara Roberts	General Hospital	Registered Nurse	B	06/27/2018	08/01/2018
Ann Quarterman	Trustee	Deputy-Tax Accounting	B	07/26/2018	07/25/2018
Rebecca Weiser	Health	Public Health Nurse 1	B	06/27/2018	07/16/2018
Cheryl Brown	Parks	Office Support Spec 1	B	07/11/2018	09/07/2018
Kirk Saylor	Sheriff	Sheriff Maint Mechanic 2	B	07/25/2018	09/08/2018
Henry Lehman Jr	Sheriff	Correctional Officer Lieut	B	07/18/2018	09/21/2018
William Dunn	Fire	Fire Captain	B	07/17/2018	07/31/2018
Nina Tucker	Criminal Court Clerk	Deputy Criminal Ct Clerk 1	B	06/27/2018	08/11/2018
Nathan Marsh	Fire	Fire Captain	B	07/25/2018	07/31/2018
Deborah Mason	Mayor's Office	Chief of Staff-Mayor's Office	B	07/26/2018	08/16/2018
Charles Carter II	Police	Police Lieutenant	B	07/02/2018	08/01/2018
Ronald Powers *	MNPS	MONITOR - SCHOOL BUS	B	07/11/2018	09/01/2018
Sara Miller *	MNPS	Account Clerk 1	B	07/11/2018	04/01/2018
Lee Kenderdine *	Public Works	Engineer 3	B	06/14/2018	08/01/2018
Sara Scruggs *	MNPS	ED ASSISTANT REGULAR ED	A	04/30/2018	05/01/2017
Ann Smith *	General Hospital	Registered Nurse-CC	B	06/22/2018	09/01/2017
Gerald Melet Sr *	General Hospital	Dietary Specialist	B	06/24/2018	08/01/2018
Jerome Hall *	Parks	Maint & Repair Worker 2	B	07/10/2018	08/01/2018
Pennie Brooks *	Health	Public Health Nurse 2	B	06/27/2018	08/01/2018
Ernest Simpson *	Police	Police Officer 2	B	07/07/2018	06/01/2011

Disability to service

Employee	Department	Plan A/B	Effective Date of Conversion
Jenny Howard Brown	Health	B	07/01/2018
Ronald Hayes	Water Services	B	07/01/2018
William Willey	Public Works	B	07/01/2018
Deborah Berryhill	Police	B	07/01/2018

Options Elected

Employee	Department	Pension Type	Plan A/B	Effective Date	Option	Drop Election
Patricia Montgomery	Information Technology Service	Service With Option	B	07/01/2018	Option D	
William Dixon	Parks	Service With Option	B	06/30/2018	Option A	
James Lane Jr	Police	P&F Service Pen With Option	B	06/28/2018	Option D	3
Ronnie Johnson	MNPS	Service With Option	B	05/23/2018	Option E	

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

Options Elected

Employee	Department	Pension Type	Plan A/B	Effective Date	Option	Drop Election
Billy King	MNPS	Service With Option	B	05/26/2018	Option D	
William Shoulders	General Hospital	Early Service Without Option	B	06/30/2018	Normal	
James Leavell	MNPS	Service With Option	B	07/04/2018	Option F	3
Brenda Wooten	MNPS	Service Without Option	B	05/26/2018	Normal	1
Doris Johnson	MNPS	Service Without Option	B	05/25/2018	Normal	3
Diane Phillips	MNPS	Service Without Option	B	05/25/2018	Normal	
Janice McSwiney	MNPS	Service Without Option	B	07/01/2018	Normal	
Vanessa Davis	MNPS	Survivor Option From Service	B	05/26/2018	Option A	
Judy Hilton	MNPS	Service Without Option	B	06/15/2018	Normal	1
Bobby Wilson	Water Services	Early Service With Option	B	07/14/2018	Option D	
Deanna Larson	Public Library	Early Service Without Option	B	06/23/2018	Normal	
Thomas Gustine	Sheriff	Service With Option	B	06/19/2018	Option E	
Joseph Callis	Public Library	Early Service Without Option	B	06/30/2018	Normal	
Lois Roof	MNPS	Early Service With Option	B	05/26/2018	Option E	
Glenda Uselton	MNPS	Service With Option	B	06/30/2018	Option A	
Randall Pruitt	Public Library	Early Service With Option	B	07/07/2018	Option A	
Joe Richardson	Water Services	Early Service With Option	B	06/20/2018	Option F	
Richard Jones	Fire	P&F Service Pen With Option	B	06/13/2018	Option E	
Verner King	Fire	P&F Service Pen With Option	B	06/30/2018	Option E	3
Christy Daniel	Clerk and Master	Early Service Without Option	B	07/12/2018	Normal	
Brigitte Stewart	District Attorney	Early Service With Option	B	06/30/2018	Option E	
James Overton Iii	Fire	P&F Service Pen With Option	B	06/19/2018	Option E	3
Vivian Johnson	Human Resources	Service Without Option	B	06/30/2018	Normal	
Eugene Nolan	Finance	Service With Option	B	06/16/2018	Option E	3
Peter Bernhart	Fire	P&F Service Pen With Option	B	06/08/2018	Option A	3
Troy Meadows	Police	P&F Service Pen With Option	B	06/16/2018	Option B	3
Jeffrey Tharpe	Police	P&F Service Pen With Option	B	06/16/2018	Option F	2
Jeffrey Goodwin	Police	P&F Service Pen With Option	B	06/23/2018	Option A	2
Deidre Dilg	MNPS	Service With Option	B	06/01/2018	Option A	
Thomas Jobes	Convention Center	Service Without Option	B	07/01/2018	Normal	
Florence Adewole	General Hospital	Service Without Option	B	04/01/2018	Normal	
Dahli Perez-Whyte	Caring for Children	Service Without Option	B	07/01/2018	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	

QDRO – None to report

Survivor

Employee	Department	Survivor Name	Plan A/B	Effective Date
William Tapley	MNPS	Emma Tapley	B	07/17/2018
Brenda Hudiburg	MNPS	James Hudiburg	B	05/30/2018
Ecil Bailey Jr	Water Services	Judy Bailey	B	07/17/2018
Arnold Wright	MNPS	Frances Wright	B	06/26/2018
Donald Saunders	Fire	Betty Saunders	B	07/13/2018
Ronny Perry	Public Library	Susan Perry	B	07/03/2018
Henry Gordon	Codes Administration	Eleanor Gordon	B	05/20/2018
William McCormick	Fire	Charlene McCormick	B	06/22/2018
Mark Wells	Police	Sandra Wells	B	07/02/2018
Wayne Hughes	Police	Lou Hughes	B	06/22/2018

BENEFIT BOARD ITEMS

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

1. Pension overpayment appeals.

Christina Hickey reported to the Board that staff recently discovered a pension calculation error for semimonthly retired members whose pensions were calculated between late June 2016 and May 2018. She stated this error caused these members to be paid a higher pension benefit than they were entitled to receive. Several of these pensioners have requested to appeal to the Board to waive the pension overpayment due to be assessed. In these cases, a duplicate check in December 2014 was included in their pensionable earnings.

The Metro Code specifies service pensions be calculated on the highest sixty consecutive months. When payroll earnings were loaded into the calculation system, a check was duplicated so that the pensionable earnings included one extra paycheck. After the research was completed, there were a total of 100 pensioners that were overpaid. The staff has notified these pensioners of this error and the correction needed. 28 have requested to have their overpayment taken as a single lump sum from their August 2018 pension check and 31 have requested to have it taken over a 12-month period in equal payments. Attached is a list of the 28 pensioners who have requested their overpayment be waived and the amount of their respective overpayments. Of the remaining 13, 4 have been spoken to, 7 have been left messages, 1 is unreachable and 1 is deceased. With regard to the remaining 12 (minus 1 deceased), the overpayment letter sent to each pensioner outlines a default option for repaying the last 12 months overpayment in 12 equal installments from their pension checks.

Metro Code Section 3.08.230 clearly states that "the board, upon discovery of such error shall correct the error..." and further states "In the event a member or beneficiary receives more pension benefit than he was entitled to receive, the board shall collect, by way of reducing pension payments." However, this same Code Section also states: Repayment of any amount overpaid to any member or beneficiary may be waived by the board where such overpayment was made through error committed by the board's staff and the board determines that the member or beneficiary; 1. Was without fault or knowledge of the error; 2. Did not participate in or induce the additional payment; 3. Had no way under the circumstances to know or, by the exercise of reasonable diligence, to know that an overpayment had been made; and 4. Would, due to repayment, be deprived of income required for ordinary and necessary living expenses.

The staff has confirmed that based on the facts surrounding this case, the pension overpayments made were done so through no fault of the pensioners and further, these cases meet the qualifications outlined in Metro Code Section 3.08.230 to waive overpayment should the Board choose to do so. Therefore, the staff recommends that the Board review and consider the overpayments list.

After some discussion of the criteria, qualifying each request for a waiver and internal safety measures in place, B.R. Hall moved for approval to waive the overpayments. Jerry Hall seconded and the Board approved with Stephanie Bailey opposed.

2. In Line of Duty Committee report.

Christina Hickey reported to the Board that the In Line of Duty Committee met on July 26, 2018 to deliberate on 3 injury on duty (IOD) medical care requests. She stated that the Committee's actions are outlined below.

Committee Chair Jerry Hall asked if there were any amendments, corrections or questions of the minutes from the In Line of Duty Committee meeting. With no corrections, Christine Bradley moved for approval of the In Line of Duty Committee minutes. Edna Jones seconded and the Committee minutes were approved without objection.

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

Committee Chair Jerry Hall reviewed the recommendations with the Board. He stated that on Committee item 1, the IOD medical care request for the Pensioner from the Fire Department, the Committee recommended to overturn the denial by ASC and approve the claim.

Dewey Branstetter, attorney, was present.

2. In Line of Duty Committee report. (continued)

B.R. Hall moved for approval of the recommendation on Committee item 1, the IOD medical care request for the Pensioner from the Fire Department to overturn the denial by ASC and approve the claim. Edna Jones seconded.

There was some discussion regarding what medical information subsequently caused the Committee to overturn their previous recommendation to deny the claim.

Vickie Hampton, ASC, stated that no additional medical information was received.

Committee Chair Jerry Hall stated that no additional medical information was received however, there was a better explanation of the circumstances surrounding the incident.

A vote was taken on the motion for approval of the recommendation on Committee item 1, the IOD medical care request for the Pensioner from the Fire Department to overturn the denial by ASC and approve the claim and was approved with Talia Lomax-O'dneal abstaining.

Committee Chair Jerry Hall reported to the Board that on Committee item 2, the IOD medical care request for the employee from the Fire Department, the Committee recommended to uphold the denial by ASC.

The employee was present.

Tracy Patterson, ASC, reviewed the claim with the Board. She stated this case pertains to a male Firefighter/EMT 2 who is also a self-employed plumber. She stated that in August 2017 the employee sought treatment with a specialist for hand pain under his personal health insurance. She stated that after conservative treatment and diagnostics surgery was ordered September 29, 2017 and the employee filed a 101 Form on October 14, 2017 for bilateral hands and listed the date of injury as August 28, 2017. She stated that the physician at the IOD Clinic agrees with the diagnosis, however, he does not feel that it is caused by his employment with the Fire Department.

The employee addressed the Board regarding the claim and his job duties.

After discussion of when the law changed back in 2014 regarding repetitive injuries and that they were not considered work related and the Board instructing ASC to follow that standard, Edna Jones moved to uphold ASC's denial of the claim. Stephanie Bailey seconded and the Board approved with B.R. Hall, Stacey Rucker opposed and Todd Henry abstaining.

B.R. Hall changed his vote to the affirmative.

Committee Chair Jerry Hall reported to the Board that on Committee item 3, the IOD medical care request for the former employee from the Health Department, the Committee recommended to uphold the denial by ASC on the grounds that the statute of limitation has passed and this claim does not meet the criteria for an IOD psychological injury.

The former employee was present.

Tracy Patterson, ASC, reviewed the claim with the Committee. She stated this case involves a former employee of the Health Department. She stated that on August 12th of 2008 the former employee responded with co-workers to the Sheriff's Office following a report of a white powdery substance believed to be anthrax. She stated that the same day the white material was determined not to be anthrax. The former employee resigned from his position with Metro on September 2, 2008 and filed a 101 Form on September 17, 2008 for the white powder incident stating this incident exacerbated his post-traumatic stress disorder (PTSD), which was present before his employment with Metro. She stated that ASC denied the claim as it does not meet the criteria for psychological injury on duty claims.

The former employee addressed the Board regarding this claim, stating his position that ASC does not have authority to make initial determinations on IOD medical claims, and that the motion made at the June 2008 Special Called meeting of the Board failed in accordance with the By-Laws. The former employee stated that he

2. In Line of Duty Committee report. (continued)

contends there is evidence from the Health Department that the Health Department never rendered a determination of this claim and that the payroll department incorrectly stated he took no sick leave after the incident.

Edna Jones stated that ASC making decisions regarding IOD claims is valid and has been valid. She stated that even if that were not the policy, the Health Department also denied the claim in question and no appeal was filed within the time limits. She stated that the Board has the Legal Memorandum regarding psychological injuries and this claim does not meet that criteria as the former employee was hired with PTSD.

Edna Jones moved to uphold the recommendation from the IOD Committee to uphold the denial by ASC on the grounds that the statute of limitations has passed and this claim does not meet the criteria for an IOD psychological injury.

There was some discussion regarding who determines the statute of limitations.

Nicki Eke, Legal Department, stated that the case law is that in those situations where the benefit plan does not prescribe a time limitation, the longest limitation period that applies is the six year statute of limitations for contract claims. She stated that a claim or appeal of an IOD medical benefits claim to the Board has to be made within six years and that statute of limitations begins to run when by reasonable care and diligence, it is discoverable and apparent that an injury on duty has occurred. She stated that the Board looks at the facts of each case and makes the determination regarding whether the statute of limitations has run.

There was some discussion regarding the vote allowing ASC to make initial determinations on injury on duty medical claims and any effect it may have on what is being discussed today.

Nicki Eke, Legal Department, stated that essentially what the Board has set up is where an initial determination is made by ASC and anyone who disagrees with that determination can appeal to the Board. The Board reviews the information de novo and makes its own determination on whether or not to grant the IOD medical benefit claim. She stated that in 2008 the Board asked ASC to make initial determinations. She also stated that there is a section of the Code that states that the Board is empowered to employ the services of others which in the sole discretion of the Board may be necessary to maintain a soundly designed, administered and financed system.

There was some discussion regarding the action taken by the Board at its Special Called Meeting in June 2008.

Nicki Eke, Legal Department, stated that the record reflects that the motion passed by a majority of those present and voting. She stated that four members initially voted in favor and one individual changed their vote to the affirmative and ultimately five individuals voted for the motion. She stated that the votes of the Board are tabulated based on the majority of those present and voting. She stated that abstentions do not count in determining whether a majority vote has occurred. She stated that ultimately the By-Laws are construed in a manner consistent with state law. She stated that as reflected in the records, five members ultimately voted for that motion, three opposed and two abstained so that was a majority of the members present and voting that approved the motion.

The former employee reviewed the minutes from the June 2008 meeting. He contends that the Board rejected the one individual's vote that was changed to the affirmative. He also reviewed what the By-Laws state regarding voting.

The former employee was asked what he is seeking from this Board.

The former employee stated that he is asking the Board to consider that he has never had an initial determination rendered by anyone legally and to be heard on the injury on duty medical benefits. The former employee stated that he is seeking a hearing on the injury on duty medical claim and a vote on whether or not he is entitled to IOD medical benefits from 2008.

The former employee stated he is seeking a benefit based on PTSD. He stated that the PTSD was diagnosed in 2000 related to an event that occurred in 1969. He also made mention of some other personal issues.

2. In Line of Duty Committee report. (continued)

It was noted that the former employee is seeking a benefit for something for which he was diagnosed before being hired and an incident that he states aggravated the condition.

Stephanie Bailey called for the question closing off any further debate.

Stephanie Bailey seconded the motion made by Edna Jones to uphold the recommendation from the IOD Committee to uphold the denial of the IOD medical benefit claim by ASC on the grounds that the statute of limitations has passed and this claim does not meet the criteria for an IOD psychological injury.

The Board voted on the call for the question, which was unanimous.

A vote was taken on the motion to uphold the recommendation from the IOD Committee to uphold the denial of the former employee's IOD medical claim by ASC on the grounds that the statute of limitations has passed and this claim does not meet the criteria for an IOD psychological injury and was approved with Edna Jones, Christine Bradley, Todd Henry, Shannon Hall, Jerry Hall, Tom Curtis, Stephanie Bailey, and Talia Lomax-O'dneal in favor and B.R. Hall and Stacey Rucker opposed.

B.R. Hall changed his vote to the affirmative.

3. Correspondence:

- a. Utilization report from Blue Cross Blue Shield.
- b. Utilization report from CIGNA.
- c. Utilization report from Alternative Service Concepts, (ASC).

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

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

5. Late item(s):

Items to be listed under this section were reported at the meeting and have been included in these minutes.

Christina Hickey asked that if any member wanted to serve as a Board advisor for the consultant request for proposal to let her know.

With nothing further presented, the meeting adjourned at 10:53 a.m.

ATTEST:

APPROVED:

Shannon B. Hall, Director
Human Resources

Edna J. Jones, Chair
Employee Benefit Board