

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

MARCH 9, 2020

MINUTES

TRUSTEES

PRESENT:

William W. Wilson, Chair, Public Member
Arthur E. Goulet, Vice-Chair, Retiree Member
Steven Hintz, Treasurer-Tax Collector
Mike Sedell, Public Member
Jordan Roberts, General Member
Robert Ashby, Safety Member
Will Hoag, Alternate Retiree Member

TRUSTEES

ABSENT:

Steve Bennett, Public Member
Craig Winter, General Member

STAFF

PRESENT:

Linda Webb, Retirement Administrator
Henry Solis, Chief Financial Officer
Lori Nemiroff, General Counsel
Leah Oliver, Chief Technology Officer
Shalini Nunna, Retirement Benefits Manager
Nancy Jensen, Retirement Benefits Specialist
Josiah Vencel, Communications Officer
Chris Ayala, Program Assistant

PLACE:

Ventura County Government Center
Hall of Administration Building, Multi-Purpose Room
800 S. Victoria Avenue
Ventura, CA 93009

TIME:

9:00 a.m.

ITEM:

I. CALL TO ORDER

Chair Wilson called the Disability Meeting of March 9, 2020, to order at 9:02 a.m.

II. APPROVAL OF AGENDA

MOTION: Approve.

Moved by Sedell, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

III. APPROVAL OF MINUTES

A. Business Meeting of February 24, 2020.

MOTION: Approve.

Moved by Roberts, seconded by Goulet.

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT

Trustee Sedell noted some of the disability cases had been in open status for several months and requested that staff prepare a report that showed the disability cases open, and the length of time each had been active.

Ms. Webb replied that staff would prepare that information.

After discussion by the Board, the following motion was made:

MOTION: Receive and File.

Moved by Roberts, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

V. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-connected Disability Retirement - McGugan, Steve J.; Case No. 19-011.

1. Application for Service-connected Disability Retirement filed, February 25, 2019.
2. Medical Analysis and Employer's Statement of Position, including Supporting Medical Documentation, submitted by County of Ventura-Risk Management, in support of the Application for Service-connected Disability Retirement, dated January 27, 2020.
3. Hearing Notice, dated March 4, 2020.

Catherine Laveau was present on behalf of County of Ventura, Risk Management. The applicant, Steve J. McGugan, was also present.

Mr. McGugan said the process to get his case to the Board had been long.

Ms. Laveau declined to make a statement.

Trustee Goulet noted the applicant's request for the effective date of his retirement be changed to an earlier date, and he asked what specific date the applicant had requested.

Ms. Jensen replied that the applicant had requested the day after his last day compensated by the County of Ventura to be the effective date.

Trustee Goulet asked staff to confirm that date would be in February 2016.

Ms. Jensen confirmed that to be correct.

Trustee Sedell asked what date the applicant was found to be permanent and stationary, and how many days passed since that date.

Ms. Laveau replied that the applicant was found to be permanent and stationary in May 2018 by an orthopedic qualified medical examiner and the treating physician found him to be permanent and stationary in November 2018.

Trustee Sedell then asked Ms. Laveau why it had taken 3½ months for the case to be brought to the Board.

Ms. Laveau said that once the permanent work restrictions were provided to the department, an analysis was performed to determine if the department could accommodate those work restrictions, and this can sometimes be a lengthy process. Once the department determines that they cannot accommodate the restrictions, they submit documentation to Risk Management to support that determination. Risk Management then reports on the employer's position based on all related medical reports and accommodation determinations.

After discussion by the Board, the following motion was made:

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Sedell, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

Both parties agreed to waive preparation of findings of fact and conclusions of law.

Mr. McGugan thanked Ms. Jensen and Ms. Laveau for their help in informing him of his right to apply for a disability retirement and for their help during the application process.

B. Application for Service-connected Disability Retirement - La Bellarti, John; Case No. 16-021.

1. Application for Service-connected Disability Retirement, filed July 8, 2016.
2. Medical Analysis and Employer's Statement of Position, including Supporting Medical Documentation, submitted by County of Ventura-Risk Management, in support of the Application for Service-connected Disability Retirement, dated February 18, 2020.
3. Hearing Notice, dated March 4, 2020.

Catherine Laveau was present on behalf of County of Ventura, Risk Management. Ron Christiansen, Attorney at Law, was present on behalf of the applicant, John La Bellarti, who was also present.

Both parties declined to make statements.

Trustee Goulet asked when the applicant had added the cumulative trauma designation to his application, since the report showed that it was added, but there was no date given and his application did not indicate any cumulative trauma.

Mr. Christiansen said that there must have been some confusion because the applicant's specific date of injury was the same date as the cumulative trauma designation, which was June 10, 2014. He did not know when the application had been updated to include the cumulative trauma designation.

Trustee Goulet said he asked because he was concerned by a statement that Dr. Rosenberg had made in the report which implied that all Harbor Patrol Officers would suffer from cumulative injuries. He said that it was very troublesome for the Board when determining whether to grant disability retirements to these members.

Mr. Christiansen agreed that the statement from Dr. Rosenberg was overly broad, but in Mr. La Bellarti's case he had a specific injury claim and the cumulative trauma designation was later added because of the comments from Dr. Rosenberg. In addition, Dr. Rosenberg attributed 25% to the specific incident or injury and 75% to cumulative injuries, despite the fact that the

applicant had two previous back surgeries related to car accidents, which were not taken into account.

Trustee Roberts recalled that the last time the applicant was before the Board, there was an issue with the expiration of the time for continuation of health insurance. He asked the applicant how that issue could impact the Board's decision to grant him a disability retirement.

Mr. La Bellarti replied that he had lost his County insurance eligibility because the County could not reinstate him to his prior position, so he had purchased health insurance on his own.

Ms. Nemiroff said she did not recall that being an issue with Mr. La Bellarti's application for service-connected disability or any other application for disability. She said it was solely a matter of who was providing his health insurance, which was a matter between the applicant and the County of Ventura, did not involve VCERA at all, and the loss of his health insurance would not affect his ability to apply for and be granted a service-connected disability retirement.

Trustee Roberts said he had misunderstood the issue and thanked Ms. Nemiroff for the clarification.

Ms. Nemiroff continued saying that Mr. La Bellarti had simply come to the Board previously to inform them that the delay in processing his application had resulted in the unfortunate situation where he had lost his COBRA insurance, but it did not impact his rights to a disability retirement.

Trustee Roberts asked Ms. Laveau if the loss of insurance issue impacted the County of Ventura's ability to reinstate him as an employee.

Ms. Laveau replied that once an employee's COBRA insurance expires, there is no way to retroactively reinstate them, though the County of Ventura did explore that possibility.

After discussion by the Board, the following motion was made:

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Sedell, seconded by Hintz

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

Both parties agreed to waive preparation of findings of fact and conclusions of law.

C. Application for Service-connected Disability Retirement and Disability Reassignment (Govt. Code section 31725.65) - Weaverling, Rebecca J.; Case No. 18-022.

1. Application for Service-connected Disability Retirement, filed September 18,

2018.

2. Medical Analysis and Employer's Statement of Position, including Supporting Medical Documentation, submitted by County of Ventura-Risk Management, in support of the Application for Service-connected Disability Retirement, dated October 1, 2019.
3. Supplemental Position to October 1, 2019 Employer's Statement of Position, submitted by County of Ventura-Risk Management, received January 27, 2020.
4. Independent Medical Evaluation Report of Dr. Steven Nagelberg, dated December 23, 2019.
5. Hearing Notice, dated March 4, 2020.

Catherine Laveau was present on behalf of County of Ventura, Risk Management. The applicant, Rebecca J. Weaverling, was also present.

Both parties declined to make statements.

Trustee Sedell said that it was refreshing to review a disability retirement case where the applicant and the County of Ventura were able to work together to accommodate work restrictions and to see an employee return to work.

Chair Wilson agreed and said that he had not seen a case like this in his time on the Board.

Ms. Webb noted that it was a rare case where the employee was reassigned to a lower paying job, and if granted a service-connected disability, VCERA would pay the difference between the previous job classification and the lower paying job classification.

Trustee Ashby noted that salary ranges provided to the Board were for an Animal Control Officer II and an Office Assistant III – Confidential employee, but the Office Assistant position had a higher pay range than the previous position as an Animal Control Officer II.

Trustee Goulet also asked why the Office Assistant III – Confidential job was referenced and wondered by that position would have a need for confidentiality.

Ms. Laveau said that the position was not a confidential position.

Trustee Goulet said that the salary range in the attached job description was incorrect because it did not reflect the recent General Salary Increases approved by the County of Ventura.

Ms. Laveau said that the Office Assistant III – Confidential job description that was provided to the Board was incorrect because it was not a confidential position.

Trustee Goulet also noted that the statement in the employer's position said that the applicant did not engage in any hobbies that could have contributed to her injury, however on Master Page 553 it stated that the applicant owned a horse and backpacked. He said he assumed that she rode the horse since she owned it and common problems from horseback riding are golfer's elbow and carpal tunnel syndrome, and therefore believed that statements from the employer's position

regarding her hobbies as not contributing to her injury to be incorrect. Also, the applicant stated using the water hose at her job location was difficult for her, but he believed that the pressure from that hose was the lowest allowable pressure for domestic use and did not understand how using a garden hose at that pressure could have presented a problem for the applicant.

Ms. Laveau explained that they had included the job analysis for the case, and though the pressure used from a single instance may not be significant, the applicant was required to use it repetitively and that was one of the issues that she had reported. Also, the injury itself was cumulative since it was due to a variety of things over time.

Ms. Weaverling said that the hose that she used was 100 feet long and had a high-pressure nozzle to increase the pressure which created vibration. The hose that was used was also not a standard garden hose, but rather a heavier industrial grade hose used for hot water.

Trustee Sedell asked what would happen if future market-based adjustments changed the salary range variance for the Animal Control Officer II and Office Assistant III positions.

Ms. Nemiroff replied that both positions would be evaluated every year and appropriate adjustments would be made. Also, VCERA was only paying the difference in salary between the two positions and the amount of the differential and salary could never exceed the amount the applicant would have received with a full disability retirement.

After discussion by the Board, the following motion was made:

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Ashby, seconded by Sedell.

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

Both parties agreed to waive preparation of findings of fact and conclusions of law.

VI. OLD BUSINESS

A. Update on Office Remodel.

Ms. Webb provided a status update on the office remodel, saying the work was now focused on the final phase, which was the Board Room. Paint and carpet had been installed and the board table was scheduled to be delivered on March 17th, and if things went well, the Board might be able to hold the April combined meeting in the new Board Room. She said staff was pleased with the completed phases, which were within the approved budget.

VII. NEW BUSINESS

A. Review of 2019 Board Member Education Compliance. **RECOMMENDED ACTION: Approve.**

1. Staff Letter.
2. Board Education Compliance Report for 2019.

Ms. Webb reminded the Board that the education compliance report was posted to the website annually, though the Trustees' education requirement was a 2-year one, which required 24 hours of trustee education within that time. For those Trustees who were short of 24 hours in the report still had until the end of 2020. Ms. Webb noted the newest Trustees had been able to get their required 24 hours of education, which was encouraging. She asked anyone had any unreported educational hours to please let staff know so they could be included in the final posted report.

Trustee Goulet said that he would appreciate it if staff could provide him with a list of Trustee educational resources that he could take online.

Ms. Webb replied that staff would work on such a list. She noted that if the SACRS Spring Conference was not cancelled, the Trustees could receive a good number of educational hours by attending that conference.

After discussion by the Board, the following motion was made:

MOTION: Receive and File.

Moved by Ashby, seconded by Hintz.

Vote: Motion carried

Yes: Ashby, Goulet, Hintz, Roberts, Sedell, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

B. SACRS 2020 Spring Voting Proxy.

1. Staff Letter.

Ms. Webb reminded the Board that they would need to select a voting proxy, just as they had done in advance of every previous SACRS conference so that a Trustee could vote on their behalf at the SACRS business meeting.

Chair Wilson asked if there was any legislation that could impact VCERA.

Ms. Webb said the attached legislative update contained some information, but staff had not received the meeting agenda from SACRS yet, but once it arrived, staff would provide it to the Board.

Trustee Goulet said that up until now there had not been any actual substantial retirement related legislation passed, but one of the most significant bills under consideration was SB 783 which was a committee bill, and another was a bill that would exempt veterans' pensions from state taxation.

Chair Wilson said that he was tabling the agenda item until the Board meeting in April.

VIII. INFORMATIONAL

- A. State Association of County Retirement Systems (SACRS) Legislative Update – March 2020.

IX. PUBLIC COMMENT

None.

X. STAFF COMMENT

Ms. Webb reminded the Board that their Form 700 would be due April 1st, if they had not submitted them already. She said that staff had been taking cues from the County of Ventura in regard to the Coronavirus response and staff had been making assessments on the critical functions and how best to accomplish them if staff were to work remotely, in the event there was a mandate to do so.

XI. BOARD MEMBER COMMENT

Trustee Hoag reported that Personnel Review Committee would be uploading the performance review materials on Survey Monkey for the Retirement Administrator, Chief Investment Officer and General Counsel that coming week.

XII. ADJOURNMENT

The meeting was adjourned at 9:34 a.m.

Respectfully submitted,



LINDA WEBB, Retirement Administrator

Approved,



WILLIAM W. WILSON, Chairman