

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

MARCH 11, 2019

MINUTES

TRUSTEES

PRESENT:

William W. Wilson, Chair, Public Member
Steven Hintz, Treasurer-Tax Collector
Robert Bianchi, Vice-Chair, Public Member
Mike Sedell, Public Member
Dan Shapiro, General Member
Chris Johnston, Safety Member
Arthur E. Goulet, Retiree Member
Will Hoag, Alternate Retiree Member
Ed McCombs, Alternate Public Member

TRUSTEES

ABSENT:

Steve Bennett, Public Member
Craig Winter, General Member

STAFF

PRESENT:

Linda Webb, Retirement Administrator
Lori Nemiroff, General Counsel
Henry Solis, Chief Financial Officer
Julie Stallings, Chief Operations Officer
Leah Oliver, Chief Technology Officer
Josiah Vencel, Communications Officer
Donna Edwards, Retirement Benefits Specialist
Nancy Jensen, Retirement Benefits Specialist
Chris Ayala, Program Assistant
Sierra Walsh, Office Assistant III-C

PLACE:

Ventura County Employees' Retirement Association
Second Floor Boardroom
1190 South Victoria Avenue
Ventura, CA 93003

TIME:

9:00 a.m.

ITEM:

I. CALL TO ORDER

Chair Wilson called the Disability Meeting of March 11, 2019, to order at 9:00 a.m.

II. APPROVAL OF AGENDA

MOTION: Approve.

Moved by Johnston, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Shapiro, Winter

Abstain: -

III. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT

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

MOTION: Receive and File.

Moved by Goulet, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Shapiro, Winter

Abstain: -

IV. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-Connected Disability Retirement - Manley, Holly A.; Case No. 16-026.

1. Application for Service-Connected Disability Retirement, filed August 12, 2016.
2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-connected Disability Retirement, dated February 25, 2019.
3. Hearing Notice, dated February 26, 2019.

Catherine Laveau was present on behalf of County of Ventura, Risk Management. Laurence D. Grossman, Attorney at Law, was present on behalf of the applicant, Holly A. Manley, who was also present.

Both parties declined to make statements.

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

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Sedell, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Shapiro, Winter

Abstain: -

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

B. Application for Service-Connected Disability Retirement - Barajas, Humberto Jr.; Case No. 16-031.

1. Application for Service-Connected Disability Retirement, filed October 3, 2016.
2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-Connected Disability Retirement, dated February 25, 2019.
3. Hearing Notice, dated February 26, 2019.

Catherine Laveau was present on behalf of County of Ventura, Risk Management. Thomas J. Wicke, Attorney at Law, was present on behalf of the applicant, Humberto Barajas Jr., who was not present.

Both parties declined to make statements.

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

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Johnston, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Shapiro, Winter

Abstain: -

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

Trustee Shapiro arrived at 9:06 a.m.

- C. Application for Service-Connected Disability Retirement - Kissane, Kevin R.; Case No. 17-005.
1. Application for Service-Connected Disability Retirement, filed February 16, 2017.
 2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-Connected Disability Retirement, dated February 25, 2019.
 3. Hearing Notice, dated February 26, 2019.

Catherine Laveau was present on behalf of County of Ventura, Risk Management. Thomas J. Wicke, Attorney at Law, was present on behalf of the applicant, Kevin R. Kissane, who was not present.

Both parties declined to make statements.

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

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Bianchi, seconded by Johnston.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

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

- D. Application for Service-Connected Disability Retirement - Hernandez, Jerry C.; Case No. 14-025.
1. Proposed Findings of Fact and Recommended Decision to Deny the Application for Service-Connected Disability, submitted by Hearing Officer Nancy T. Beardsley, dated February 9, 2019.
 2. Hearing Notice, dated February 26, 2019.

Carol Kempner and Catherine Laveau were present on behalf of County of Ventura, Risk Management. Laurence D. Grossman, Attorney at Law, was present on behalf of the applicant, Jerry C. Hernandez, who was also present.

Both parties made brief statements.

Trustee Goulet commented that the applicant's attorney appeared to disregard citations from the hearing officer related to the Mansperger and Schrier decisions, which conflicted with the

Sheriff's Department policy requiring the applicant to perform all the duties of a Deputy Sheriff in addition to his duties as a Captain; these were two separate views.

Trustee Johnston cited a previous case in which a Commander in the Sheriff's Department subdued a violent suspect, even though it was not his usual job duty. He said the Board may have to look past the Mansperger decision to the duties that Safety members are actually called on to perform.

Trustee Hintz said that Captains and Commanders must still qualify on the shooting range just as a Sheriff Deputy.

Ms. Kempner encouraged the Board to consider the entire medical record as well as personnel records that preceded Mr. Hernandez's disability application.

Mr. Hernandez said that he had been required to stay on-site for his assignment and that, if he had been offered a better position, he would have been willing to accept it.

Chair Wilson said that while reading the case, he thought it would be fairly straight forward due to the nature of the event that caused the applicant's injury. However, as he continued to review the case, it was much more complicated; he came to the conclusion that the findings of the hearing officer were reasonable.

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

MOTION: Approve and Adopt the Hearing Officer's Recommendation to Deny the Application for Service-Connected Disability Retirement.

Moved by Goulet, seconded by Sedell.

Vote: Motion carried

Yes: Bianchi, Goulet, McCombs, Sedell, Shapiro, Wilson

No: Hintz, Johnston

Absent: Bennett, Winter

Abstain: -

V. OLD BUSINESS

None.

VI. NEW BUSINESS

A. Review of 2018 Board Member Education Compliance.

RECOMMENDED ACTION: Approve.

1. Staff Letter.

2. Board Education Compliance Report for 2018.

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

MOTION: Receive and File, and Authorize Staff to Post Report on Website.

Moved by Bianchi, seconded by Goulet.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Bennett, Winter

Abstain: -

Trustee Johnston left the Board dais, recused himself during the presentation and consideration of item VI.B., and sat at the table reserved for disability applicants.

B. Consideration of Request by Trustee Johnston for Independent Review of his Service-Connected Disability Application.

1. Staff Letter.

Ms. Webb informed the Board that Trustee Johnston had filed an Application for Service-Connected Disability Retirement and had requested that his application be reviewed by an independent party rather than by Ventura County Risk Management. Staff had contacted Risk Management to inquire if they had any objection to this request, and they did not. Therefore, if the Board granted the request, staff would provide all of the case documentation to LACERA to review.

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

MOTION: Approve.

Moved by Bianchi, seconded by Shapiro.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Bennett, Johnston, Winter

Abstain: -

C. SACRS 2019 Spring Voting Proxy.

1. Staff Letter.

After discussion, the Board designated Trustee Hoag as the voting proxy and Trustee McCombs as the alternate.

VII. INFORMATIONAL

A. Memorandum from General Counsel - Litigation Status Report of K. Dean v. Board of Retirement.

Ms. Nemiroff said VCERA won the Dean case, which was now closed.

VIII. PUBLIC COMMENT

None.

IX. STAFF COMMENT

Ms. Webb reminded Board members to submit their Form 700s to staff, if they had not already done so.

X. BOARD MEMBER COMMENT

None.

XI. ADJOURNMENT

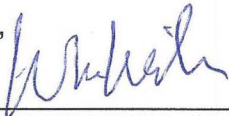
The meeting was adjourned at 9:40 a.m.

Respectfully submitted,



LINDA WEBB, Retirement Administrator

Approved,



WILLIAM W. WILSON, Chairman