

# VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

## BOARD OF RETIREMENT

### DISABILITY MEETING

OCTOBER 8, 2018

### MINUTES

**DIRECTORS**

**PRESENT:**

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

**DIRECTORS**

**ABSENT:**

Peter C. Foy, Public Member

**STAFF**

**PRESENT:**

Linda Webb, Retirement Administrator  
Lori Nemiroff, General Counsel  
Henry Solis, Chief Financial Officer  
Dan Gallagher, Chief Investment Officer  
Shalini Nunna, Retirement Benefits Specialist  
Vickie Williams, Retirement Benefits Manager  
Karen Scanlan, Accounting Manager I  
Donna Edwards, Retirement Benefits Specialist  
Nancy Jensen, Retirement Benefit Specialist  
Stephanie Berkley, Retirement Benefit 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**

Vice-Chair Wilson called the Disability Meeting of October 8, 2018, to order at 9:00 a.m.

**II. APPROVAL OF AGENDA**

Ms. Webb noted that she had a correction to the agenda, on item VII.B.1. She said that the agenda item states that the staff letter was from C.F.O., Henry Solis, when in fact the letter was from her.

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

MOTION: Approve with corrections.

Moved by Bianchi, seconded by Fox.

Vote: Motion carried

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

No: -

Absent: Foy

Abstain:

**III. APPROVAL OF MINUTES**

A. Business Meeting and Board Retreat of September 24, 2018.

Ms. Webb offered a correction to the minutes, saying that the Board had adjourned in memory of Judy Michaels. She said that the last name was inadvertently misspelled and should have said Mikels.

MOTION: Approve with Correction.

Moved by Bianchi, seconded by Goulet.

Vote: Motion carried

Yes: Bianchi, Fox, Goulet, Hintz, McCombs, Wilson, Winter

No: -

Absent: Foy

Abstain: Johnston, Sedell

Trustees Johnston and Sedell abstained from the vote because they did not attend the Business Meeting and Board Retreat of September 24, 2018.

**IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT**

MOTION: Receive and File.

Moved by Goulet, seconded by McCombs.

Vote: Motion carried

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

No: -

Absent: Foy

Abstain:

**V. APPLICATIONS FOR DISABILITY RETIREMENT**

A. Application for Service-connected Disability Retirement - Young, Gary T.; Case No. 17-011.

1. Application for Service-connected Disability Retirement, filed June 21, 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 September 21, 2018.
3. Hearing Notice, dated September 25, 2018.

Catherine Laveau was present on behalf of County of Ventura Risk Management. Michael Treger, Attorney at Law, was present on behalf of the applicant. The applicant, Gary T. Young, was also present.

Mr. Treger made a statement saying that he would like the Board to adopt the recommendation by the Risk Management Office staff and doctor involved with the case.

Ms. Laveau declined to make a statement.

Trustee Goulet remarked that the sequence of events regarding the case was of interest to him. He said throughout the year 2016, the applicant was under the care of Orthopedic Surgeon, Dr. Horn, and the applicant worked full duty until January 2017, when he went out on a temporary disability because he had exacerbated a previous wrist injury. He had seen Dr. Cohen for the wrist injury who stated that if he ever had surgery for it, he would not be able to continue working as a firefighter. The applicant had surgery on his wrist in February 2017, and later in June 2017 Dr. Cohen told the applicant that he could go back to work because his wrist was no longer an impediment, but instead of returning to work, he filed for a disability retirement in late June 2017. Since the applicant was able to work full duty except for the wrist injury, and that was resolved why should he be eligible for a disability retirement

Ms. Laveau said that the applicant had permanent restrictions that did not allow Mr. Young to perform the full range of duties as a firefighter.

Trustee Goulet said that permanent medical restrictions were established by the Qualified Medical Examiner after the disability application had been filed, but the applicant was doing his job before he went on temporary disability for his wrist.

Ms. Laveau said that he was performing a modified version of his job, but not all of the assigned functions.

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, Fox, Hintz, Johnston, McCombs, Sedell, Wilson, Winter

No: -

Absent: Foy

Abstain: Goulet

Trustee Goulet said that he was abstaining because of the concern he expressed regarding the applicant's ability to perform his job duties.

- B. Application for Service-connected Disability Retirement - Grant, Jacqueline (Jackie).;  
Case No. 17-024.
1. Application for Service-connected Disability Retirement, filed November 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 September 24, 2018.
  3. Hearing Notice, dated September 25, 2018.

Catherine Laveau was present on behalf of County of Ventura Risk Management. The applicant, Jacqueline Grant, was also present.

Ms. Grant said that she deferred to the statement she had made in her disability application.

Ms. Laveau declined to make a statement.

Trustee Goulet said that the applicant had previously received a disability retirement in 1992 from the City of Compton, but there was no discussion about it in Risk Management's report or the Medical Examiner's report. He said he would like to know if that was a contributing factor to what the Medical Examiner said was, "cumulative injury". Further, the report contained a statement that the County could not accommodate Ms. Grant, but there was no indication of an interactive process or a definitive statement regarding accommodation from the District Attorney's Office. He then said that he believed the report to be incomplete and should not be heard by the Board that day.

Ms. Laveau said the District Attorney's Office did conduct an interactive process, and that the Board needs to consider in disability cases related to safety members was the position requirements for sworn safety officers and if they were to return to work, they would be required to perform all associated duties in emergency situations, unless there was an allowance for them to do lesser, which currently there was not. In regard to Ms. Grant's case, her current work restrictions did not allow for her to perform all functions of her sworn position.

Trustee Goulet said that the Mansberger decision states that the applicant would need to be able to perform only a substantial amount of the duties. He then asked if Risk Management had performed a Mansberger analysis.

Ms. Laveau stated that they had, and one of the duties Ms. Grant was unable to do, but was required to do at all times, was to carry a firearm in public.

Trustee Goulet said Ms. Grant stated she was able to qualify on a shooting range, but could not hold her firearm the two-handed, but could qualify single handed.

Ms. Laveau replied that, Ms. Grant had not qualified on the shooting range during her time working in a modified, and working with the gun restriction would put the County of Ventura in a position of liability if they the restriction, this would be a liability not only to Ms. Grant but to the community as well.

Trustee Goulet said that Risk Management's report should have stated if Mansberger was applied and there was still the issue of the previous disability retirement.

Ms. Laveau said that was part of the analysis, and the report did address the fact that Risk Management did not believe she could perform the majority of her essential job functions, which equated to the Mansberger decision. She said that it could be specifically addressed going forward.

Ms. Laveau said that as for the previous disability retirement, even if the report did not specifically address that opinion, this was an employee who had worked a substantial amount of time for the County and the prior disability retirement did not have a bearing on her ability to perform her job duties in her position. It was their belief that there was not any factor related to the prior disability retirement that would alter their current recommendation.

Trustee Goulet said that he had asked Risk Management previously to review any recreational activities that the applicant did on their own time that could have contributed to injuries. In the case where an applicant had been temporarily accommodated, there should have been a discussion of the interactive process and a definitive statement from the agency regarding the possibility of accommodation, which the Board had not received from the District Attorney's Office.

Ms. Laveau said that in every one of the reports, the section titled, "Causation" had been expanded, and when she reviewed the issues relative to causation she had put forth factors that could contribute to the applicant's injuries, and where there had been such factors, it had been provided in the report.

Trustee Sedell remarked that though he understood Trustee Goulet's concerns, he believed the injury that occurred and was clearly work related and he had also seen the prior disability retirement, which transpired roughly 36 years ago. He did not see a problem in approving Ms. Grant's disability retirement application.

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

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Sedell, seconded by Johnston.

Vote: Motion carried

Yes: Bianchi, Fox, Hintz, Johnston, McCombs, Sedell, Wilson, Winter

No: Goulet

Absent: Foy

Abstain:

Trustee Goulet stated that he voted "no" because he felt the report was incomplete.

**VI. OLD BUSINESS**

**A. Employer-Filed Disability Retirement Application.**

**RECOMMENDED ACTION: Receive and File.**

1. Staff Letter.
2. Application Form.

Ms. Webb informed the Board that an Employer-Filed Disability Retirement Application had been utilized by other retirement systems, but not yet by VCERA.

Trustee Fox asked why has the document not been adopted by the Board of Retirement before.

Ms. Nemiroff said the application did not need to be adopted by the Board because under the California Employees Retirement Law (CERL), if an employer believes that an employee was not fulfilling the duties of their job, they could file for a disability retirement on the employee's behalf, since they are not allowed to terminate them, and VCERA had always had this option. Recently, Risk Management's Office had brought to staff's attention that the form being used was tailored more for an employee who was filing for a disability retirement, and not an employer. So, staff created an application that was designed for this purpose.

Ms. Webb said that the options on page 2 were being clarified. She said the application was a vehicle for the employer to move things along, while still retaining employees' options and rights.

Trustee Johnston said that he would just like to have the application revised so that the employees' options are very clear to them.

Trustee Winter asked if staff could bring back the application so that the Board could review the revised version.

Ms. Webb said that she would bring it back to the Board for review and discussion.

Trustee Goulet offered a few suggestions for revising the application.

**VII. NEW BUSINESS**

- A. Request for Authorization to Conduct On-Site Due Diligence Visits to Prudential and Harbourvest.

**RECOMMENDED ACTION: Approve.**

1. Staff Letter by C.I.O., Dan Gallagher.

MOTION: Approve Up to Two Trustees and CIO to Attend Due Diligence Trips to Prudential and Harbourvest.

Moved by Sedell, seconded by Goulet.

Vote: Motion carried

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

No: -

Absent: Foy

Abstain:

Ms. Webb reminded the Board the Education & Travel discouraged the same Trustees from attending multiple due diligence meetings.

- B. Recommendation for Authorization for Accounting Manager, Karen Scanlan and Sr. Accountant, Nida Williams to Attend the CALAPRS Intermediate Course in Retirement Plan Administration, Glendale, CA, October 17 - 19, 2018.

**Recommended Action: Approve.**

1. Staff Letter.  
2. CALAPRS Intermediate Course in Retirement Plan Admin. Agenda.

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

MOTION: Approve.

Moved by Johnston, seconded by Fox.

Vote: Motion carried

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

No: -

Absent: Foy

Abstain:

**VIII. INFORMATIONAL**

- A. Article, "Tough Year for Globalists".

Vice-Chair Wilson said that he would like to have this item on the agenda for the next business meeting, so that the Board can hear NEPC's comments on it.

**IX. PUBLIC COMMENT**

None.

**X. STAFF COMMENT**

Ms. Webb reported that VCERA has just hired a Chief Technology Officer, Leah Oliver, who would start work on November 5th. Also, the Real Estate Committee was making progress and should have a recommendation for the Board soon. Lastly, the Elections Office had certified the General Member Election and Dan Shapiro had won the election and would be starting his term on the Board in January.

**XI. BOARD MEMBER COMMENT**

Trustee Goulet expressed a technical issue with the Board Books software.

Ms. Webb said that she could have Diligent look into the issue.

**XII. ADJOURNMENT**

The meeting was adjourned at 9:28 a.m.

Respectfully submitted,



---

LINDA WEBB, Retirement Administrator

Approved,



---

WILLIAM W. WILSON, Vice-Chairman