

## **MINUTES**

### **METROPOLITAN EMPLOYEE BENEFIT BOARD**

**February 2, 2010**

The Metropolitan Employee Benefit Board met for their regularly scheduled meeting on Tuesday, February 2, 2010 in the Civil Service Conference Room, Suite 163, 222 Building, Third Avenue North, Nashville, Tennessee, at approximately 9:30 a.m.

Benefit Board members: Chair: Edna J. Jones; Vice Chair: Christine Bradley; Members: Ann V. Butterworth, B.R. Hall, Sr., James H. Johnson, Richard M. Riebeling, Rita Roberts-Turner and Clyde D. Smith.

Members **Charles D. Clariday, Sr. and G. Thomas Curtis were unable to be present.**

Others present: Shannon B. Hall, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Cynthia Perry, 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 January 5, 2010. With no corrections, nothing further was noted and Ann Butterworth moved for approval. Christine Bradley seconded and the Board approved without objection.

#### **B. APPEAL ANNOUNCEMENT:**

Shannon Hall 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. Cynthia Perry reported to the Board that she recommends approval of the disability pension new requests, items 1 through 7, for the length of time as recommended. Ann Butterworth moved for approval of the recommendation to approve the disability pension new requests, items 1 through 7 for the length of time as recommended. Christine Bradley seconded and the Board approved without objection.

On item 8, Dr. Cynthia Perry reported to the Board that she recommends approval of the disability pension new request and the individual be returned to work with restrictions.

Tony Driver, General Hospital Human Resources, addressed the Board regarding accommodating the restrictions. He reported to that the department is unable to accommodate the individual's current restrictions.

After some discussion of the individual's, item 8, job duties and case management, Clyde Smith moved for approval of the recommendation to approve the disability pension new request, and returning the individual to work and assigning case management for a job assessment.

After discussion of other potential positions and salary supplements, Richard Riebeling seconded the motion.

There was some discussion of potential safety issues with this position and the process regarding placement when accommodations can not be met.

A vote was taken on the motion on item 8 to approve the disability pension new request, return the individual to work and assign case management for a job assessment was approved by the Board without objection.

Dr. Cynthia Perry reported to the Board that she recommends approval for continuing the disability pension reexaminations, items 9 through 23 for the length of time as recommended. Christine Bradley moved for approval of the recommendation to continue the disability pension reexaminations, items 9 through 23 for the length of time as recommended. Ann Butterworth seconded and the Board approved without objection.

On items 24 through 26, Dr. Cynthia Perry reported to the Board that she recommends deferral for one month pending additional medical information. Ann Butterworth moved for approval of the recommendation to defer items 24 through 26 for one month. Rita Roberts-Turner seconded and the Board approved without objection.

Dr. Cynthia Perry reported to the Board that on item 27, she recommends that the individual be returned to work without restrictions.

Sue Bibb, Police Department Human Resources, addressed the Board regarding the individual's return to work. She reported that after contacting the individual about returning in March, the individual has indicated that they are no longer interested in returning to work with the department in their previous position.

The Board discussed the individual being cleared to return to work without restrictions, their decision to decline the job offer and the pension ceasing in accordance with the Code.

Nicki Eke, Legal Department, reviewed what the Code states regarding return to work and terminating the pension. Ms. Eke further stated that if there is a position that has been identified and the individual refuses to take that position, the Board can vote this individual is no longer disabled that the pension will terminate.

After further discussion of the Code, return to work provisions and additional job offers, Ann Butterworth moved for approval of the recommendation on item 27, to return the individual to work and terminate the pension effective March 1, 2010 if the individual further declines to return to their previous position. Rita Roberts-Turner seconded and the Board approved with B.R. Hall opposed.

On item 28, Dr. Cynthia Perry reported to the Board that the department has some information regarding their return to work status.

Velvet Hunter, General Services, reported to the Board that the vacancies within the department and in greater Metro are outside of the individual's restrictions.

Shannon Hall also reported that after a vocational job assessment was done on one position that they could possibly qualify for, it was determined that the individual could not do the position.

After some discussion of the positions reviewed and various job functions, Clyde Smith moved to have this item referred to the In Line of Duty Committee for discussion. B.R. Hall seconded.

After some discussion of potential upcoming vacant positions, a vote was taken on the motion to refer item 28 to the In Line of Duty Committee and was approved with Ann Butterworth and Christine Bradley abstaining.

Dr. Cynthia Perry reported to the Board that on item 29 there is an update regarding the return to work status.

Shannon Hall stated that the department will be addressing the return to work status with the Board.

David Birdwell, Fire Department, reported to the Board that after the job assessment, there is no position available within the department for this individual.

After some discussion of potential retraining for the individual in order to qualify for different positions, Clyde Smith moved to assign case management to do an assessment for vocational rehabilitation.

The individual was present and addressed the Board.

B.R. Hall seconded the motion.

There was some discussion on the Code provisions regarding returning individuals to work that are in the police and fire pension plans versus general government employees.

After some discussion, the Board was in agreement that a re-exam date should be included in the motion while the assessment is being conducted.

Clyde Smith restated the motion to rescind the return to work with a re-exam date set in one year, (February 2011), and to assign case management to do an assessment for vocational rehabilitation. B. R. Hall seconded.

There was discussion and clarification that this is not a reconsideration of a previous matter.

At this time, Clyde Smith withdrew the previous restated motion. B.R. Hall withdrew his second.

Clyde Smith moved to have the individual removed from the return to work list, assign case management to do an assessment for vocational rehab (with updates as necessary to the Board) and schedule re-exam in one year, (February 2011). B.R. Hall seconded 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>Recommendation</b>
1.	Leslie J. Anderson	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension request was approved for one year, (February 2011), with re-exam at that time.
2.	Elaine F. Browning	Police	Medical	As moved, seconded and approved, this disability pension request was approved for four months, (June 2010), with re-exam at that time.
3.	Sandra M. Harding	General Services	Medical	As moved, seconded and approved, this disability pension request was approved for six months, (August 2010), with re-exam at that time.
4.	Gregory L. Manson	Bordeaux	Medical	As moved, seconded and approved, this disability pension request was approved for one year, (February 2011), with re-exam at that time.
5.	Peggy J. Price	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension request was approved for six months, (August 2010), with re-exam at that time.
6.	Jamie J. Reeser	Police	IOD	As moved, seconded and approved, this disability pension request was approved for three months, (May 2010), with re-exam at that time.
7.	Gale D. Sims	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension request was approved for one year, (February 2011), with re-exam at that time.
8.	Geraldine Murphy	General Hospital	IOD	As moved seconded and approved, this disability pension request was approved and the individual placed on the return to work list.

**REEXAMINATIONS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty (IOD) or Medical Disability</b>	<b>Recommendation</b>
9.	Andrew W. Bell	General Services	IOD	As moved, seconded and approved, this disability pension was continued for six months, (August 2010), with re-exam at that time.
10.	William C. Caruthers	Public Works	Medical	As moved, seconded and approved, this disability pension was continued without stipulation of scheduled re-exam.
11.	Rita F. Castleman	General Hospital	IOD	As moved, seconded and approved, this disability pension was continued for nine months, (November 2010), with re-exam at that time.
12.	Ronald T. Chambers	Water	Medical	As moved, seconded and approved, this disability pension was continued for six months, (August 2010), with re-exam at that time.
13.	Jose M. Diaz, Jr.	Police	IOD	As moved, seconded and approved, this disability pension was continued for six months, (August 2010), with re-exam at that time.
14.	Rosary L. Elliott	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued for one year, (February 2011), with re-exam at that time.
15.	Tony W. Flatt	Sheriff	Medical	As moved, seconded and approved, this disability pension was continued for six months, (August 2010), with re-exam at that time.
16.	Debra M. Goad	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued for four months, (June 2010), with re-exam at that time.
17.	Thomas H. Hazelip	Metropolitan Nashville Public Schools	IOD	As moved, seconded and approved, this disability pension was continued for one year, (February 2011), with re-exam at that time.
18.	Octavia M. Holt	Metropolitan Nashville Public Schools	IOD	As moved, seconded and approved, this disability pension was continued without stipulation of scheduled re-exam.
19.	Carol J. Itoh	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued for six months, (August 2010), with re-exam at that time.

**REEXAMINATIONS: (continued)**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty (IOD) or Medical Disability</b>	<b>Recommendation</b>
20.	Abdul-Kareem Luqman	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension was continued for six months, (August 2010), with re-exam at that time.
21.	Thomas E. Matthews, Jr.	Criminal Court	Medical	As moved, seconded and approved, this disability pension was continued for four months, (June 2010), with re-exam at that time.
22.	Gerald M. Napier	Information Technology	Medical	As moved, seconded and approved, this disability pension was continued for five months, (July 2010), with re-exam at that time.
23.	Velma Odem	Health	Medical	As moved, seconded and approved, this disability pension was continued for one year, (February 2011), with re-exam at that time.
24.	Jerry D. Lee, Jr.	Fire	IOD	As moved, seconded and approved, this disability pension re-exam was deferred for one month, (March 2010), with re-exam at that time.
25.	Virginia D. Russell	Metropolitan Nashville Public Schools	Medical	As moved, seconded and approved, this disability pension re-exam was deferred for one month, (March 2010), with re-exam at that time.
26.	Charlene E. Tatum	Sheriff	Medical	As moved, seconded and approved, this disability pension re-exam was deferred for one month, (March 2010), with re-exam at that time.
27.	Nashied S. Khan	Police	IOD	As moved, seconded and approved, this individual was approved to return to work and the pension terminating effective March 1, 2010, if the individual does not return to previous position.
28.	James R. Edens	General Services	IOD	As moved, seconded and approved, this disability pension re-exam was referred to the in line of duty committee.

**OTHER:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty (IOD) or Medical Disability</b>	<b>Recommendation</b>
29.	Kenneth Barnes	Fire	IOD	As moved, seconded and approved, this individual was removed from the return to work list and scheduled for re-exam in one year, (February 2011).

Dr. Cynthia Perry reported to the Board that she concurs with the case management recommendations on the social security referrals. Rita Roberts-Turner moved for approval of the recommendations on the social security referrals. Ann Butterworth seconded and the Board approved without objection.

**SOCIAL SECURITY REFERRALS:**

Item	Name	Department	Review Originated From	Case Mgmt Rec for Referral	CSME Rec for Referral	Comments
1	Ray Bass	Water	Pension Approval	No	No	already applied
2	Deborah Davis	MNPS	Pension Approval	No	No	review again 7/10
3	John Keenan II	Sheriff	Pension Approval	Yes	Yes	
4	Ella Maybray	MNPS	Pension Approval	No	No	recommend voc
5	Phillip Meador	Police	Pension Approval	Yes	Yes	
6	Deborah McCord	State Trial Court	Pension Approval	Yes	Yes	
7	Mary Sisemore	Fire	Pension Approval	No	No	review again 7/10
8	Sandra Smith	Water	Pension Approval	No	No	review again 4/10
9	Rita White	Police	Pension Approval	No	No	review again 7/10
10	Michelle Woodberry	MNGH	Pension Approval	Yes	Yes	

**D. PENSIONS: (service, disability to service, options elected and survivor)**

Christine Bradley moved for approval of the pensions. Rita Roberts-Turner seconded and the Board approved without objection.

**Service**

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Gail S. Bennett	Parks	Office Support Rep 3	B	12/21/2009	01/01/2010
Gerald E. Posey	MNPS	Senior Electrician	B	01/05/2010	04/01/2010
Lawrence C. Stephenson	State Trial Courts	Court Administrator	B	01/06/2010	05/11/2010
Linda M. Crutcher	Police	Police Operations Coordinator 1	B	01/06/2010	01/01/2010
Gary E. Borden	Fire	Fire Captain	B	01/07/2010	02/06/2010
Martin T. Burns	Police	Police Officer 2	B	01/12/2010	02/01/2010
Robert Adgent	General Hospital	Medical Laboratory Technician	B	01/12/2010	02/01/2010
David F. Grisham	Police	Police Officer 2	B	01/14/2010	02/01/2010
James E. Lynch	Human Resources	Human Resource Analyst 3	B	01/14/2010	05/02/2010
Thyra F. Beal	General Hospital	Environmental Services Technician	B	01/15/2010	01/16/2010
Linda G. Reid	MNPS	Secretary/Clerk	B	01/19/2010	02/26/2010
Diane M. Hargett	Bordeaux LTC	Registered Nurse	B	01/20/2010	03/09/2010
Joe R. Stroud, III	Fire	Fire Captain	B	01/20/2010	04/01/2010
William C. Lewis	Planning	Planner 1	B	01/20/2010	10/01/2008*
Billy P. Kofahl	Fire	Firefighter 3	A	01/21/2010	02/13/2010
Larry D. Price	Fire	Fire Captain	B	01/21/2010	02/13/2010

**Service (continued)**

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Dorris O. Cannon	MNPS	School Bus Monitor	B	01/21/2010	02/13/2010
Katherine A. Bedell	MNPS	Secretary/Clerk	B	01/21/2010	03/04/2010
Mary Darlene Turnbo	Public Works	Office Support Specialist 2	B	01/22/2010	04/03/2010

\* Deferred Benefit

**Disability to service**

Employee	Department	Plan A/B	Effective Date of Conversion
Daniel R. Williams	Police	A	01/01/2010
Vivian L. Blackshear	Bordeaux	B	07/01/2009
Roy J. Miller	Water	A	01/01/2010
Marsha T. Bailey	MNPS	B	01/01/2010
Mary T. Sowder	MNPS	B	01/01/2010
John Whittenburg	Police	B	01/01/2010
Aretta D. White	General Hospital	B	01/01/2010
Linda G. Stephens	Police	A	01/01/2010
Darlene Lumpkin	MNPS	B	01/01/2010

**Options Elected**

Not available

**Survivor**

Employee Name	Department	Survivor Name	Plan Membership	Effective Date
Robert Estes	Fire	Sherry Estes	B	12/31/2009

**BENEFIT BOARD ITEMS**

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

1. Committee Appointments.

Shannon Hall reported to the Board that in accordance with the Board's by-laws, the revised Committee appointments are being presented for the Board's information.

2. Re-determination of disability pension amount based on excess earnings.

Shannon Hall reported to the Board that staff has identified a disability pensioner who has exceeded their outside allowable earnings amount and, in accordance with the Code, are to have their disability pensions adjusted accordingly.

Clyde Smith moved for approval of the adjustment in accordance with the Code. Rita Roberts-Turner seconded and the Board approved without objection.

3. Final results of pension plan valuation.

Kevin Sullivan, Bryan, Pendleton, Swats & McAllister, gave a summary of the plan provisions (Division A and B), employee data statistics of the plans (open and closed), future trends and projected contribution assumptions. Mr. Sullivan stated they are recommending a contribution rate of 15.416%.

There was some discussion of the current market and the possibility of the recommended rate changing.

3. Final results of pension plan valuation. (continued)

Richard Riebeling moved for approval of the 15.416% contribution rate.

Christine Bradley seconded and the contribution rate of 15.416% was approved without objection.

4. Contested case appeal – Disability pensioner from Emergency Communications Center.

Shannon Hall reported to the Board that the in line of duty disability pension request for this individual was approved as a medical disability pension. In accordance with the appeals process and procedures in effect at that time, the individual appealed the matter to an administrative law judge. Since that time the Board has become exempt from contested case hearings under the Uniformed Administrative Procedures Act. Ms. Hall stated that the initial order from the administrative law judge and briefs from both legal representatives are being presented for the Board's review to render a final decision.

Susan Tucker-Jones, attorney, Metro Legal Department, addressed the Board in regard to the administrative law judge's order. She reviewed the criteria to support the award of an in line of duty disability pension and further stated that it is the recommendation of the Legal Department to deny the request for the in line of duty disability pension as there is no evidence of the legal standard being met.

Tom Storey, attorney, addressed the Board. Mr. Storey cited case law in support of the administrative law judge's decision on the order.

There was some discussion of the work related stressors, physician's statements, and the process after a decision is rendered by the Board. There was also discussion of her job responsibilities.

Ann Butterworth moved to uphold the prior Benefit Board decision to deny the in line of duty disability pension, remain on a medical disability pension and offer vocational case management.

Richard Riebeling seconded.

There was additional discussion of one physician's statement.

A vote was taken on the motion to uphold the prior Benefit Board decision to deny the in line of duty disability pension, remain on a medical disability pension and offer vocational case management and was approved with B.R. Hall and Clyde Smith opposed.

5. Correspondence:

- a. Utilization report from BlueCross BlueShield.
- b. Utilization report from CIGNA.
- c. Utilization report from Alternative Service Concepts. (reported quarterly)
- d. HIPAA reminder.
- e. Cigna explanation of benefits (EOB).
- f. BlueCross BlueShield hard drive theft update.
- g. Utilization review correspondence – Alternative Service Concepts

Shannon Hall made note of items 5.-d., 5.-e., 5.-f. and 5.-g.

Items 5.-a. through 5.-g. were for information only and no action was required.

6. Reports for your information:

- a. Return to work.
- b. Social Security approvals.
- c. Refund of pension contributions. (not available)
- d. Repayment of pension contributions.
- e. Reports from Treasury. (not available)
- f. Non-compliant disability pensioners. (none to report)
- g. Pending litigations. (reported quarterly)

6. Reports for your information: (continued)
  - h. Disability status reports.
  - i. Denial log from Alternative Service Concepts.

Items 6.-a. through 6.-i. were for information only and no action was required.

7. Late item(s):

There were no late items reported at the meeting.

With nothing further presented, the meeting adjourned at 11:19 a.m.

ATTEST:

APPROVED:

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**Mrs. Rita Roberts-Turner, Director  
Human Resources**

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