

Meeting Minutes

Public Safety Police Personnel Retirement Board Regular Meeting

March 2, 2022, | 9:00 a.m.

City Hall, 2nd Floor, Law Conference Room
175 S. Arizona Avenue., Chandler, AZ



Call to Order

The meeting was called to order by Chairperson Turner at 9:00 a.m.

Roll Call

Commission Attendance

Chairperson Steven Turner
Citizen Member Bill Crawford
Police Member Elect Daniel Shellum
Police Member Elect Raymond Kieffer
Citizen Member Lanna Leonard

Staff Attendance

Nichole Bombard, Medical Leave Coord.
Christine Jarosik, Medical Leave Coord.

Others Present

Andrew Apodaca Board Attorney
Pam Treadwell-Rubin

Absent

None

Scheduled and Unscheduled Public Appearances

Consent Agenda and Discussion

1. February 2, 2022 Minutes
Regular Meeting Minutes of Wednesday, February 2, 2022.

Consent Agenda Motion and Vote

Police Member Elect Shellum moved to approve the Consent Agenda of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board Meeting; Seconded by Citizen Member Crawford.

Motion carried unanimously (5-0).

Executive Session - Pursuant to A.R.S. Section 38-431.03 (A), the Chandler Local Police Public Safety Personnel Retirement Board may vote to convene in executive session to discuss or consider confidential records exempt by law from public inspection, and/or to consult with the Board's attorney for legal advice and to consider the Board's position and to instruct the Board's attorney regarding its position on items 2 through 3. The Board will take action on those items in open session.

Action Agenda Item No. 2 and Discussion

2. Accidental Disability Application Carpenter

Consideration, Discussion, and Appropriate Action regarding the review of the Accidental Disability for Vincent Carpenter.

Chairperson Turner stated that the Board called for and conducted an evidentiary hearing to solicit evidence regarding two factual questions: 1) whether Vincent Carpenter's departure from the Department was "by reason of accidental disability" as defined by A.R.S. §38-844 (B), and 2) whether his disabling condition was "incurred in the performance of his duty" as defined by A.R.S. §38-842 (1). That evidentiary hearing took place on February 25, 2022, before a certified court reporter.

Executive Session – Chairperson Turner asked for a motion to end the Open Session and to move into Executive Session for confidential medical review. Citizen Member Crawford made a motion to end the Open Session and to move into Executive Session for confidential medical review in matter Action Agenda Item No. 2. Police Member Elect Shellum seconded the motion, and the vote was unanimous to end the Open Session and move into Executive Session at 9:03 a.m.

Open Session – Chairperson Turner asked for a motion to end the Executive Session and move into Open Session. Citizen Member Crawford made the motion to end the Executive Session and to move into Open Session; Citizen Member Leonard seconded the motion, and the vote was unanimous to end the Executive Session and move into Open Session at 9:58 a.m.

Chairperson Turner noted the Board's intent to keep Vincent Carpenter's medical information private to the extent allowed. However, Arizona law requires the Board to make any vote regarding the application in Open Session.

Chairperson Turner noted for the record the Board has had an opportunity to consider live testimony of witnesses during the Evidentiary Hearing on February 25, 2022, and all exhibits to that hearing. Vincent Carpenter has made application to this Board, for Accidental Disability, based upon a claimed diagnosis of PTSD. Chairperson Turner asked each member to provide a statement prior to voting regarding 1) whether Vincent Carpenter's departure from the Department was "by reason of accidental disability" as defined by A.R.S. §38-844 (B), and 2) whether his disabling condition was "incurred in the performance of his duty" as defined by A.R.S. §38-842 (1).

Mr. Apodaca stated that after going off the record on February 25, 2022, he realized that the offer of proof submitted to the board on February 23, 2022, by Ms. Bailie was not labeled as an exhibit to Evidentiary Hearing record. He stated that that would be Applicant's exhibit #6.

After announcing this agenda item Officer Carpenter and his Counsel were afforded an opportunity to make a statement to the Board.

Police Member Elect Shellum stated that he didn't feel it's his place to determine whether Officer Carpenter's claimed disabling condition was incurred in the performance of his duty because he does not have a medical background. His ideas and thoughts were to specifically look at the determination under A.R.S. §38-844 (B) will be whether or not the termination is a result of accidental disability. During the course of testimony, there was a number of different things that were brought up that piqued Shellum's attention. During the course of all the internal affairs investigations and during the course of the administrative leave Mr. Carpenter continually stated that he followed policy, that his actions were not out of policy, and he was basing all those decisions on training and experience. He was adamant of this during his first couple of IA's and his discussion with Sgt. Greene. Sgt. Greene stated in his memo to the chain of command that Mr. Carpenter was receptive to the information that they had talked about, but was still adamant that he did nothing wrong and it wasn't out of policy. Fast forwarding to the other issue in the next IA investigation, Mr. Carpenter claimed he did exactly what he was supposed to do and there was no reasoning and discussion about his actions regarding the incident. After coming back to the road and second administrative leave Mr. Collins testified that he and Ms. Ynclan met with command staff, Chief Duggan, Assistant Chief Cox and former Assistant Chief Zdilla they were shown the videos relevant to the final IA. Mr. Collins testified that he and Ms. Ynclan recognized that the evidence did not look good and based on the testimony that meeting had occurred on July 13, 2020. Mr. Collins testified that he met with Mr. Carpenter and provided him the same information and told Mr. Carpenter to seek out Ms. Simmons to discuss issues with her. When you look at the timelines of everything that Commander Deanda testified that on July 13, 2020 she was notified to make notice to Mr. Carpenter that he was going to be served with a pre-termination notice. Mr. Carpenter testified that he knew he was going to be served with pre-termination notice paperwork.

Then again through testimony both by Mr. Collins and Mr. Carpenter, stated that Mr. Collins approached Chief Duggan about a request for FMLA that the Chief had denied. It was at that time Mr. Collins said that he went to Mr. Carpenter's house and picked up a resignation letter. In that letter there identified an unknown medical condition the reason for resignation. Member Shellum noted his concerns with that information because at no time during any internal affairs investigation or at any meetings or conversations was there ever an issue raised about this sort of medical condition. There is a clear understanding that based on the timelines for the internal affairs investigations that Mr. Carpenter was going to be dismissed from the agency based on the conduct as documented in the internal affairs investigations.

Police Member Elect Kieffer listening to the testimony last week, he has a couple issues with the timing of the actual resignation letter coming in on the ninth hour regarding Mr. Carpenter knowing that he is going to be terminated. Kieffer knows that when FMLA is asked for it's not denied by the Chief. The Chief does not have the ability to deny FMLA. There is a process that Mr. Carpenter is aware of. Mr. Carpenter used FMLA in the past with his wife when she was pregnant. The ability to look at FMLA as an option is known throughout the Department and City and how it can be obtained. In regard to the lack of accountability on Mr. Carpenter in the any of his IA's and not taking any type of accountability what his actions were in a sense that he believed that they were wrong or that he may have had an issue that may be was medical. He had plenty of opportunities from 2016 when he believes his medical condition started. At no time did he ever look and seek out any type of medical assistance prior to talking to Ms. Simmons, whether it was July 6, 2020 when that discussion happened. When it did occur in the 9th hour of the 9th day when the pre-dismissal was happening and he was fully aware of that. Even Det. Coons testified he had noticed a change in Mr. Carpenter's character in the way he was talking to people which he was not used to. Those discussions happened way before the pre-dismissal notice of July 13, 2020 when it was getting set-up to be served with that paperwork. Member Kieffer noted that at no time did Mr. Carpenter take that into account and actually seek out any option to see if there is something going on with him. Member Kieffer noted that the timing is suspect as to when Mr. Carpenter complete his resignation letter. Even with the discussion with Sergeant Greene. Sgt. Greene stated Mr. Carpenter was receptive yet he didn't believe he was going to do anything with the opportunities that he was provided.

Citizen Member Crawford stated that he listened very closely to all of the testimony from all of the parties and witnesses, but he does have some concerns in regard to the resignation letter, the timing of the resignation letter, the timing of the events, and the information provided by Commander Deanda in regards to how the entire termination process played out. Mr. Crawford noted his concerns in regard to whether or not there was any issue in regards to a disability. Mr. Carpenter freely and voluntarily decided that he was ready to move on. In addition, Mr. Crawford noted that during Mr. Carpenter's testimony

he testified that he was looking to move to another agency to perhaps continue his career at another agency. To Mr. Crawford that indicates that he wanted to resign and move on to another law enforcement agency.

Chairperson Turner stated that he takes this responsibility extremely seriously and went into the evidentiary hearing with a great amount of desire to really find out as much information as possible. Throughout all the witnesses and all the testimonies and evidence that was submitted he tried to do as much research as he possibly could. There are a few things that stuck out to Mr. Turner that he contemplated since the hearing. During Mr. Carpenter's testimony when being questioned by Mr. Jue asking about his belief that all of his actions were within policy and even after his resignation and moving forward with the psychologist and to this day still believing that he was within policy. That combined with the timing of the last IA and the submittal of the letter of resignation some of the timing is very concerning to Mr. Turner.

Citizen Member Leonard stated that due to her absence for the Evidentiary Hearing she does not have any comments.

Action Agenda Item No. 2 Motion and Vote

Police Member Elect Shellum moved to deny Action Agenda Item No. 2 of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board Meeting the application for accidental disability for Vincent Carpenter based upon the evidence provided during the evidentiary hearing on February 25, 2022 which demonstrated that Vincent Carpenter does not qualify for accidental disability because the applicant did not terminate by reason of disability as defined in A.R.S. §38-844 (B); Seconded by Citizen Member Crawford.

Police Member Elect Shellum, Police Member Elect Kieffer, Citizen Member Crawford, and Chairperson Turner voting Yay; Citizen Member Leonard abstained.

Action Agenda Item No. 3 and Discussion

3. New Membership for Murphy and Westfall

Consideration, Discussion, and appropriate Action for New Membership for Timothy Murphy and Trey Westfall (Police Officer Lateral - Certified) with a hire date of February 22, 2022.

Executive Session – Chairperson Turner asked for a motion to end the Open Session and to move into Executive Session for confidential medical review. Citizen Member Crawford made a motion to end the Open Session and to move into Executive Session for confidential medical review in matter Action Agenda Item No. 3. Citizen Member Leonard seconded the motion, and the vote was unanimous to end the Open Session and move into Executive Session at 10:23 a.m.

Open Session – Chairperson Turner asked for a motion to end the Executive Session and move into Open Session. Citizen Member Crawford made the motion to end the Executive Session and to move into Open Session; Citizen Member Leonard seconded the motion, and the vote was unanimous to end the Executive Session and move into Open Session at 10:34 a.m.

Action Agenda Item No. 3 Motion and Vote

Police Member Elect Shellum moved to find Agenda Item No. 3 of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board that for Timothy Murphy and Trey Westfall (Police Officer Lateral - Certified) met the applicable PSPRS membership definitions for service with the City of Chandler Police Department with a hire date of February 2, 2022; Seconded by Police Member Elect Kieffer.

Motion carried unanimously (5-0).

Police Member Elect Shellum moved to declare two pre-existing conditions as declared by the doctor for Timothy Murphy; Action Agenda Item No. 3 of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board; Seconded by Citizen Member Leonard.

Motion carried unanimously (5-0).

Police Member Elect Shellum moved to declare zero pre-existing conditions as declared by the doctor for Trey Westfall; Action Agenda Item No. 3 of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board; Seconded by Citizen Member Leonard.

Motion carried unanimously (5-0).

Action Agenda Item No. 4 and Discussion

4. Termination of Membership Castro

Consideration, Discussion, and appropriate Action regarding the probationary termination of employment and termination of PSPRS membership for Ericka Castro (Police Officer-Recruit), effective January 28, 2022.

Action Agenda Item No. 4 Motion and Vote

Police Member Elect Shellum moved to approve Agenda Item No. 4 of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board the termination of PSPRS membership for Ericka Castro (Police Officer-Recruit) effective January 28, 2022, the date of her probationary termination; Seconded by Police Member Elect Kieffer.

Motion carried unanimously (5-0).

Action Agenda Item No. 5 and Discussion

5. Termination of Membership Thornburg

Consideration, Discussion, and appropriate Action regarding the probationary termination of employment and termination of PSPRS membership for Jared Thornburg (Police Officer-Recruit), effective February 22, 2022.

Action Agenda Item No. 5 Motion and Vote

Police Member Elect Shellum moved to approve Agenda Item No. 5 of the March 2, 2022, Regular Public Safety Police Personnel Retirement Board the termination of PSPRS membership for Jared Thornburg (Police Officer-Recruit) effective February 22, 2022, the date of his probationary termination; Seconded by Police Member Elect Kieffer.

Motion carried unanimously (5-0).

Discussion

6. Updates to recent Adoption of Model Rules
7. Board recognition of DROP, Exit DROP, and Retirements

Member Comments/Announcements

Calendar

The next regular meeting will be held on Wednesday, April 6, 2022, at 9:00 a.m. at City Hall, 2nd Floor, Training Room B, 175 S Arizona Avenue, Chandler AZ

Informational Items

Adjourn

Police Member Elect Kieffer moved to adjourn the meeting; seconded by Chairperson Turner. Motion carried unanimously (5-0). The meeting was adjourned at 10:38 a.m.

Nichole Bombard, Secretary

Steve Turner, Chairperson