

Meeting Minutes

Public Safety Police Personnel Retirement Board Regular Meeting

May 4, 2022, | 9:00 a.m.
City Hall, 2nd Floor, Training Room B
175 S. Arizona Avenue., Chandler, AZ



Call to Order

The meeting was called to order by Chairperson Turner at 9:04 a.m.

Roll Call

Commission Attendance

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

Staff Attendance

Rae Lynn Nielsen, HR Director
Rowena Laxa, Asst. City Attorney
Nichole Bombard, Medical Leave Coord.
Christine Jarosik, Medical Leave Coord.

Others Present

Andrew Apodaca, Board Attorney
Pam Treadwell-Rubin, Board Attorney

Absent

Scheduled and Unscheduled Public Appearances

Consent Agenda and Discussion

1. April 6, 2022, Chandler Local Police Public Safety Personnel Retirement Board Minutes

Consent Agenda Motion and Vote

Police Member Elect Shellum moved to approve the Consent Agenda of the May 4, 2022, Regular Public Safety Police Personnel Retirement Board Meeting; Seconded by Police Member Elect Kieffer.

Motion carried unanimously (4-0).

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 item 1. The Board will take action on those items in open session.

Action Agenda Item No. 2 and Discussion

2. **Application for Accidental Disability for Chavarria - Follow Up Meeting on Applicant's Request for Rehearing**

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

Ms. Bailie noted that Medical Board doctor Segal was correct to change his opinion on the existence of PTSD as a diagnosis but did not agree with the opinion that his exam showed no evidence of total and permanent disability, as required by law. She discussed how it differed from others, including Workers' Compensation IME doctor Parker, and therapist Wilson, who both thought that the Applicant could not do police officer work because he was not capable of wearing a ballistic vest. She discussed Dr. Segal's statements about the potential for remission and re-traumatization in PTSD, as being inconsistent with his ultimate opinion. She also cited Dr. Segal's opinion that Chavarria can do police work without a vest, as evidence that total and permanent disability has been proven, since no police agency would allow an employee to work that way. She asked the Board to reject its Medical Board opinion and adopt the opinion of Workers' Compensation IME doctor Parker, to grant the application for accidental disability.

Executive Session – Chairperson Turner asked for a motion to end the Open Session and to move into Executive Session for legal advice. Police Member Elect Shellum made a motion to end the Open Session and to move into Executive Session for legal advice in matter Action Agenda Item No. 2. Police Member Elect Kieffer seconded the motion, and the vote was unanimous to end the Open Session and move into Executive Session at 9:16 a.m.

Open Session – Chairperson Turner asked for a motion to end the Executive Session and move into Open Session. Police Member Elect Shellum 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.

Ms. Bailie and Officer Chavarria returned to the meeting room, and the meeting reconvened at 10:01 a.m.

Action Agenda Item No. 2 Motion and Vote

Police Member Elect Shellum moved to deny the Action Agenda Item No. 2 of the May 4, 2022, Regular Public Safety Police Personnel Retirement Board Meeting, Officer Chavarria's request for rehearing, dated December 15, 2021, and affirm the Local Board's prior denial of Accidental Disability to Daniel Chavarria, based on the initial IME report of Dr. Segal dated October 12, 2021, and his addendum report dated April 12, 2022, and revised Accidental Disability Questionnaire, dated April 12, 2022, and making the following additional findings:

Dr. Segal has satisfied the Local Board, that he has carefully reviewed all material in the Board packet, which he relied upon to form his opinion;

Dr. Segal has addressed the perceived conflict in medical evidence alleged in Officer Chavarria's request for rehearing;

Dr. Segal has persuasively explained why he finds that Officer Chavarria is not permanently and totally disabled, as discussed at page 6 of the April 12, 2022 addendum; and

The Board finds that the answers marked by the doctor in his portion of Form P5-LB-A dated April 12, 2022, are consistent with his opinions, as expressed previously and in the addendum report dated April 12, 2022; Seconded by Citizen Member Crawford.

The Board next discussed the matter. Police Member Elect Shellum is basing his vote on reviewing all the information relating back to the original IME by Dr. Segal who had the opportunity to review Mr. Chavarria's case on an objective basis, and he is the IME of record which state law requires the Board to be bound by. In his initial independent medical exam of the incident, he says that there is no clinical diagnosis. The addendum does go back and say there is a clinical diagnosis, but ultimately, what Dr. Segal opines is that there it is not a permanently disabling condition. It's not to the point that he cannot carry out the functions of the position and or he is probable for re-traumatization. In the original IME Mr. Chavarria even says that he would be able to do the job if it weren't for having to wear a vest. The question coming before the Board is whether or not the condition is totally and permanently preventing Mr. Chavarria from performing a reasonable range of duties within the job classifications. Dr. Segal identifies that there is an accepted PTSD

diagnosis; however, based on the time of his assessment, which we are bound by, Mr. Chavarria was functioning in all aspects of his daily life without impairment. When Dr. Segal takes into consideration the other doctor's information and Dr. Parker, he identifies that it's not necessarily PTSD, it could be other stressors. Dr. Parker states that there are some residual symptoms from the 1999 shooting, but other specified trauma stress-related disorder is the most appropriate diagnosis. Dr. Parker's initial diagnosis is that it's other stress-related, not necessarily a PTSD diagnosis. For those reasons, again the fact that we were bound by state law to adhere to by our IME, his vote will be for the denial.

Police Member Elect Kieffer concurs with the statements made by Police Member Elect Shellum. Permanent damage had not been established by Dr. Segal when he interviewed Mr. Chavarria. At that point in time, he did not find any reasons to diagnose the Applicant with PTSD. The doctor did say that there were some residual aspects and stressors and stress-related symptoms. Mr. Chavarria has even said that he could do the job if he didn't have to wear the vest. Member Kieffer has seen Mr. Chavarria wear the vest over the years in the past in other capacities, and he agrees with the motion that has been brought forth.

Chairperson Turner stated the rules and laws that we have to abide by as a Board require us to be bound by the IME that was presented to us along with the addendum from Dr. Segal. The doctor did address the perceived conflict of the evidence. With that, the phrase "is not permanently and totally disabled" is what is carrying me forward at this time and his opinions are consistent. That's my statement at this time.

Citizen Member Crawford stated based on the IME reports he is persuaded to support the motion. The doctor addressed the perceived conflicts very adequately in his report. He was very clear in his statement on page 6 that he found no evidence of any permanent disability. Therefore, I am supportive of the motion.

Motion carried unanimously (4-0).

Briefing

3. Accidental Disability Appeal for Vincent Carpenter

The Local Board's determination to deny this claim based on its finding that Officer Carpenter's employment was not terminated by reason of the alleged accidental disability, following an evidentiary hearing, has been appealed to the Maricopa County Superior Court.

Member Comments/Announcements

Calendar

4. Next Meetings

The June meeting will be held on Wednesday, June 1, 2022, in the 2nd Floor Training Room B.

The July meeting will be held on Wednesday, June 29, 2022, in the Large City Attorney Conference Room.

Informational Items

5. Board Reports

- a. Police Board DROP Report
- b. Police Board Billing Report
- c. PSPRS Police Board Action Reports
 - Normal Retirements
 - DROP
 - Disability Retirements
 - Military Leave
 - Service Purchase

6. Member Updates

- Troy Spielman, Sergeant, Exit DROP May 6, 2022.
- Christopher Cooper, Lieutenant, Exit DROP May 11, 2022.
- Robert Olson, Sergeant, Exit DROP May 19, 2022.
- Marc Olivier, Officer, Enter DROP March 24, 2022.
- Matthew Figley, Officer, Enter DROP April 15, 2022.

Adjourn

Police Member Elect Kieffer moved to adjourn the meeting; seconded by Chairperson Turner. Motion carried unanimously (4-0). The meeting was adjourned at 10:11 a.m.

Nichole Bombard, Secretary

Steve Turner, Chairperson