

**Fire Public Safety Personnel Retirement Board**

Goodyear City Hall, Room 117  
190 North Litchfield Road  
Goodyear, AZ 85338



**Wednesday, May 4, 2022**

**8:00 a.m.**

**Meeting Agenda**

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENTS**

Before you begin to speak, identify yourself by clearly stating for the record, your name and address. This is the time for citizens who would like to address the Board on any non-agenda item within the jurisdiction of the Board. The Board will listen to comments, and may take any one of the following:

- Respond to criticism
- Request that staff investigate and report on the matter
- Request that the matter be scheduled for on a future agenda.

**BUSINESS**

**1. Approval of Minutes**

Approve the draft minutes of the November 18, 2021 Fire Public Safety Personnel Retirement Board Meeting.

- 2.** Review, consideration and possible action on the application and medical records for Accidental Disability - Kenneth Heng

**EXECUTIVE SESSION**

Per ARS §38-431.03, upon a public majority vote of the members constituting a quorum, the Goodyear Fire Public Safety Personnel Retirement Board may hold an executive session for any item on the agenda.

**SEPARATIONS**

There are no separations to report.

### **INFORMATION ITEMS**

Comments, Commendations, Report on Current Events and Presentations by Board, Commission or Committee Members, staff or members of the public. The members may not propose, discuss, deliberate or take any legal action on the information presented pursuant to A.R.S. § 38-431.02.

### **NEXT MEETING**

The next meeting of the Fire Public Safety Personnel Retirement Board meeting is tentatively scheduled for May 26, 2022.

### **ADJOURNMENT**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Board and to the general public that the Board will hold a meeting open to the public. Public body members of the city of Goodyear will attend either in person or by telephone conference call and/or video communication.

THE CITY OF GOODYEAR ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 48-hour advance notice, special assistance can be provided for sight and/or hearing-impaired persons at this meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (623) 882-7830 or Arizona Relay (TDD) 7-1-1 to request an accommodation to participate in this public meeting.

For Non-English assistance please contact the City Clerk at (623) 882-7830.

Si necesita asistencia o traducción en español, favor de llamar al menos 48 horas antes de la reunión al (623) 882-7830.

### **POSTING VERIFICATION**

This agenda was posted on April 25, 2022 at 11:00 a.m. by JP.

ITEM #: 1.  
DATE: 05/04/2022



## **Fire PSPRB**

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### **SUBJECT**

**Approval of Minutes**

### **Recommendation:**

Approve the draft minutes of the November 18, 2021 Fire Public Safety Personnel Retirement Board Meeting.

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### **Attachments**

111821 draft Fire PSPRB Minutes

## Fire Public Safety Personnel Retirement Board

Goodyear City Hall, Room 230

190 North Litchfield Road

Goodyear, AZ 85338



Thursday, November 18, 2021

8:00 a.m.

Meeting Minutes

### CALL TO ORDER

Chair Kaino called the meeting to order at 8:25 a.m.

### ROLL CALL

Present: Chairman Laura Kaino; Vice Chair Michael Stewart; Boardmember Patrick Doyle;  
Boardmember Jay Mathias; Boardmember Liam Tierney

Staff Board Secretary Darcie McCracken; Board Attorney Lesli Sorensen; City Clerk  
Present: Specialist Jasmine Pernicano; Benefits Analyst Chanda Washington

Attendees: Kristen Wunsch, Court Reporter; Michael Bort, Applicant; Thomas Griffin,  
Applicant's Attorney

Vice Chair Michael Stewart and Boardmember Jay Mathias participated via  
teleconference.

### PUBLIC COMMENTS

There were no public comments.

### BUSINESS

1. Approve Minutes

**MOTION BY** Boardmember Liam Tierney, **SECONDED BY** Boardmember Patrick Doyle to APPROVE the draft minutes of the August 26, 2021 Fire Public Safety Personnel Retirement Board meeting. The motion carried by the following vote:

AYE: Chairman Laura Kaino, Vice Chair Michael Stewart, Boardmember Patrick Doyle,  
Boardmember Jay Mathias, Boardmember Liam Tierney

Passed - Unanimously

2. Rehearing and Possible Action on the Application for Accidental Disability - Michael Bort (last heard on April 29, 2021)

Chair Kaino explained the purpose of the re-hearing and gave a brief overview of the case to the Board. She explained that this re-hearing was at the request of the applicant and that Mr. Bort agreed to continue the conversation in open session, to which he and his attorney, Mr. Griffin, confirmed. Chair Kaino explained that on April 29, 2021, the Board reviewed the Independent Medical Examiner's (IME) report and voted to deny Mr. Bort's accidental disability application based on the IME's determination that the injury occurred prior to the date of membership and that the injury was not incurred in the performance of his duties.

**MOTION BY** Boardmember Patrick Doyle, **SECONDED BY** Boardmember Liam Tierney to CONVENE in Executive Session to obtain legal advice at 8:30 a.m.

AYE: Chairman Laura Kaino, Vice Chair Michael Stewart, Boardmember Patrick Doyle, Boardmember Jay Mathias, Boardmember Liam Tierney

Passed - Unanimously

The meeting reconvened in Open Session at 8:58 a.m. with the applicant and the applicant's representative present.

Thomas Griffin, representing the applicant, acknowledged that the Board cannot grant the disability with the current IME report. He expressed concerns with the IME report and requested that the Board send Mr. Bort to a second IME for another opinion.

Board Attorney Lesli Sorensen requested clarification to authenticate the hand-written document from the CORE Institute provided to the Board as part of the supplemental rehearing letter. Mr. Griffin responded that the document was the written opinion of Dr. Chiang, who testified at Mr. Bort's Worker's Compensation hearing and that it was prepared after denial of the benefit in April and before today's rehearing.

In response to the pre-existing condition, Mr. Bort clarified that he indicated on his initial form at the time of hire that he had a femur fracture. Ms. Sorensen clarified that the Board was not in possession of that document.

Board discussion ensued regarding Mr. Bort's Tier 1 physical exams. Mr. Bort explained that he did not exhibit any pain or arthritis until the 2016 incident. He recalled being placed on light-duty and that, although he was able to perform at a Tier 1 level, he experienced pain after the physical exam. Mr. Bort expressed concerns with his experience with the Independent Medical Examiner in comparison to the service he received from the Worker's Compensation IMEs.

Ms. Sorensen noted that it is not the Board's usual practice to send applicants for a second IME. Mr. Griffin referenced Dr. Chiang's opinion in the worker's compensation case that he opined that it was not a pre-existing condition and that the issue aggravated the arthritis. Mr. Griffin further explained that they felt there was enough medical evidence that another IME could have a different opinion similar to Dr. Chiang. Ms. Sorensen advised that the statutory criteria for PSPRS is different from Worker's Compensation awards and read aloud Arizona Revised Statute 38-844(D) concerning the qualifications for accidental disability.

The Board convened into Executive Session to obtain legal advice at 9:38 a.m.

The Board reconvened in Open Session at 9:54 a.m.

**MOTION BY** Boardmember Patrick Doyle, **SECONDED BY** Boardmember Liam Tierney to UPHOLD the denial of Michael Bort's accidental disability application. The motion carried by the following vote:

AYE: Chairman Laura Kaino, Vice Chair Michael Stewart, Boardmember Patrick Doyle, Boardmember Jay Mathias, Boardmember Liam Tierney

Passed - Unanimously

### EXECUTIVE SESSION

Per ARS §38-431.03, upon a public majority vote of the members constituting a quorum, the Goodyear Fire Public Safety Personnel Retirement Board may hold an executive session for any item on the agenda.

[See times noted above.]

### SEPARATIONS

There are no separations to report.

### INFORMATION ITEMS

Board Secretary Darcie McCracken provided a brief update regarding new laws taking effect January 1, 2022.

Board Attorney Sorensen explained that their law firm has submitted comments in regard to the model rules for local boards and anticipates that changes will be made based on their feedback.

### NEXT MEETING

The next meeting of the Fire Public Safety Personnel Retirement Board is tentatively scheduled for Thursday, December 9, 2021.

### ADJOURNMENT

There being no further business to discuss, Chairman Kaino adjourned the meeting at 9:54 a.m.

Respectfully Submitted by:

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Darcie McCracken, Board Secretary

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Laura Kaino, Chairman

Date: \_\_\_\_\_

