

**Sun Lakes Fire District**  
**Public Safety Personnel Retirement System (PSPRS)**  
**Local Board**  
**March 3, 2011**

**Call to Order:**

The regular meeting of the PSPRS Local Board was called to order by Board Chair Sellers at 9:04 A.M.

**Roll Call of PSPRS Local Board Members:**

Board Members Weiner, Van Horn, Watkins and Rock were present. Others in attendance included Fire Chief Wilson, Deputy Chief McCoy and Human Resource Administrator Smith and Attorneys David Niedereppe and Cynthia Kelley (representing PSPRS Local Board).

**New Business**

- 1. Conduct a Hearing** of the medical evidence provided by the independent medical examiner (IME) and/or applicant, reference Accidental Disability Application by Byron Bogenhagen, as provided in A.R.S. 38-859 to review the physician's evaluation of the member's eligibility for an accidental disability pension.

Board Chair Sellers asked Chief Wilson to recap actions taken since the last Board Meeting on Mr. Bogenhagen.

Chief Wilson stated that Mr. Bogenhagen had been notified of this meeting and had not responded that he would or would not attend.

Chief Wilson stated that as requested by this Board at the last meeting (2/01/2011) the pre and post operation medical records had been requested of Dr. Tarlow's office using written and verbal requests, however, no response whatsoever has been received from Dr. Tarlow's office. Ms. Smith added that the State Compensation Fund (SCF) personnel had requested similar information and had also not received any response.

At this point Atty. Niedereppe introduced Cynthia Kelley as the person in his office that would be handling any PSPRS Local Board cases. Atty. Niedereppe went on to recommend before any further discussion was held that the Board go into Executive Session as provided in Agenda Items 2 and 3 noting that any Attorney/Client discussions held in open session are by law public information. Chief Wilson stated that the Staff recommended that the Board go into Executive Session.

- 2. Discussion and Possible Action to Adjourn to Executive Session:** Discussion with Legal Counsel, as provided in A.R.S. 38-859, on the Accidental Disability Application by Byron Bogenhagen.

Board Chair Sellers asked if there was a motion. Board Member Rock moved that the

Meeting go into Executive Session for the purpose of discussion with Legal Counsel, as provided in A.R.S. 38-859, on the Accidental Disability Application by Byron Bopenhagen. The Motion was Seconded by Board Member Weiner. There was no discussion. The Motion passed unanimously with no abstentions.

**3. Possible Adjournment to Executive Session (Closed Meeting).**

Chief Wilson and Chief McCoy left the room. The entire Board, Attorneys Niedereppe and Kelley and Local Board Secretary Smith remained in the room. Board Chair Sellers declared the meeting to be in Executive Session.

**4. Executive Session.** Discussion with Legal Counsel as provided in A.R.S. 38-859, on the Accidental Disability Application by Byron Bopenhagen.

**5. Reconvene Regular Meeting (Open Session).**

Board Chair Sellers declared the meeting to be in Open Session at 9:15 A.M.

**6. Reportable Action from the Executive Session (if any).**

Board Member Rock asked if there was any information that the Board had overlooked on Mr. Bopenhagen's application. Attorney Niedereppe answered that no other information could be considered except that information which had been presented in the application by Mr. Bopenhagen.

There were no further questions or comments.

Board Chair Sellers asked for a motion on Byron Bopenhagen's application. Board Member Rock moved to deny the Accidental Disability Retirement application because the Board reviewed medical evidence presented, including the worker's compensation IME and the IME of the physician appointed by the Board, and noted that none of the evidence tied the disability to the workplace. Accordingly, the Board concluded that the application did not meet the standard under A.R.S. 38-842(1). The Motion was Seconded by Board Member Watkins. There was no further discussion. The Motion passed unanimously with no abstentions.

**Board Member Comments.**

Board Chair Sellers asked if there was an appeal process. Attorney Niedereppe answered that Mr. Bopenhagen could ask the Board to reconsider his application provided he submits new information concerning his medical condition. This request for reconsideration must be submitted with all documentation within 60 days of today. Atty. Niedereppe also noted that Mr. Bopenhagen always has the right to sue the Board also but that is unlikely due to the evidence at hand.

There were no further comments.

**Adjournment.**

There was no further business to legally come before the meeting, therefore, Board Chair Sellers declared the meeting adjourned at 9:30 A.M.

Respectfully submitted,

Barbara Smith,  
Board Secretary  
BS/geh