

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE BLACK FOREST FIRE/RESCUE PROTECTION DISTRICT PENSION BOARD

The Board of Trustees of the Black Forest Fire/Rescue Protection District Pension Board held a meeting on September 3, 2020, at Black Forest Fire Station One, such meeting duly posted for public notice. A quorum present, the meeting began at 7:00 p.m.

Directors present: R. Nearhoof/N. Dowden/J. Hinton/D.Hoffpauir/J. Abendschan/T. McClurg/Lisa Montijo
Directors absent: None
Also present: By Zoom: Attorney Linda Glesne and Paralegal Ayshan Ibrahim.
PJ Langmaid/D. Arkowski/fire department personnel/community members

Roll Call All directors were present.

Pension Disability Request This meeting is a continuation of the submittal by Volunteer Tad McClurg for a disability pension. Mr. McClurg, who is a Board of Trustees member, agreed to recuse himself from any discussion or action in this matter.

Executive Session A motion was made to enter executive session, pursuant to §24-6-402(4)(b) to receive legal advice from the Fire District's attorney; the motion was seconded; upon a vote, the motion carried.

The board entered executive session at 7:03 p.m. Attorney Glesne certified that she and her associate from her legal firm, Ayshan Ibrahim, were present in this meeting via a Zoom connection, that six board members and Donna Arkowski were present in the room, that board member Tad McClurg has left the room as he must recuse himself from these proceedings, and that the tape recorder will be turned off for this executive session portion of the meeting. The tape recorder was turned off at 7:08 p.m.

The executive session terminated at 8:18 p.m. and Attorney Glesne certified that six members of the Board of Trustees, Attorney Glesne and her associate Ayshan Ibrahim and Board Secretary Donna Arkowski were present in the executive session, such meeting called to receive advice of legal counsel in regard to an application for a disability pension submitted by Trustee Tad McClurg, who was not present during the executive session. Ms. Glesne added that the participants present did not stray from the stated purpose of the meeting and would now be reconvening in public session and Mr. McClurg was invited to rejoin the proceedings.

Ms. Glesne addressed Mr. McClurg, reiterating that he is the subject of this pension disability request, and that the agenda allows for an additional executive session for personnel matters at which time he may present information to the Board of Trustees. Mr. McClurg was advised that he may request that the proceedings not be held in executive session, noting that all proceedings will then become public record. Mr. McClurg stated that he preferred to continue the meeting in open session, thus waiving his right to confidentiality for any discussion that may occur, including medical records that may be discussed.

The meeting continued in public session, with Mr. McClurg addressing the Board of Trustees. Mr. McClurg referred to information related to chemicals with known carcinogenic connections, including thyroid cancer with which he has been diagnosed, noting the buildup of chemicals in personal protective equipment used by fire fighters. He noted studies that indicated fire fighters have an elevated incidence of thyroid cancer, and exposure incidents common to fire fighters. In discussion, it was agreed that fire fighters are at increased risk for cancers, noting that the use of extractors to clean bunker gear is called for on a regular basis. Trustees expressed empathy for the situation, and the need for more accurate information in the industry. The juxtaposition of the request for a disability pension based on fire fighter service against the summary and legal review received from the attorney does not provide established causation with respect to fire fighter service. Trustees have a fiduciary responsibility on behalf of participating members of the pension fund and to the public on how the resources of the department will be administered. The Trustees were in agreement that the request presented by Mr. McClurg is very difficult to address due to the uncertainty in scientific and medical information available in such matters.

A motion was made by Trustee Hinton to deny Mr. McClurg's request for a fire fighter disability pension; the motion was seconded by Trustee Hoffpauir. The vote was conducted individually, with Trustee McClurg recusing himself from the vote.

Trustee Dowden: As a Trustee I have to follow fiduciary duty based on the information available and will therefore vote aye to support the motion.

Trustee Montijo: I vote aye for the motion but do hope conditions have improved in the fire service.

Trustee Abendschan: I vote aye.

Trustee Hoffpauir: Aye

Trustee Hinton: Aye

Trustee Nearhoof: Aye

The motion passed for denial of the occupational claim for disability.

Attorney Glesne thanked Mr. McClurg for his openness and cooperation and expressed appreciation for his courtesy and understanding of the processes involved in the legal recommendations. Ms. Ibrahim offered thanks to Mr. McClurg for his cordiality and helpfulness throughout the process, noting the difficulty of this recommendation.

Mr. McClurg tendered his resignation from the Pension Board of Trustees.

Future Meetings No date was set for a future meeting.

Adjournment There being no further business, **and upon motion duly made, seconded, and unanimously carried**, the board adjourned at 9:13 p.m.

Respectfully submitted,

Donna Arkowski, Secretary of the Board