

CITY OF SIERRA VISTA
FIRE PENSION BOARD MEETING
June 29, 2021

CALL TO ORDER

Chairman Gregory Johnson called the regular meeting of the City of Sierra Vista Fire Pension Board to order on June 29, 2021 at 1:33 p.m., in the City Manager Conference Room, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

ROLL CALL

MEMBERS PRESENT: Councilperson Gregory Johnson, Chairman
Barbara L. Fleming, Secretary
Gary L. Smith, Board Member
Shawn Mott, Fire Captain
Christopher Klasen, Fire Engineer

MEMBERS ABSENT: None

OTHERS PRESENT: Shanna Melanson, Human Resources Analyst
Stephen Coleman, Local Board Council (via WebEx)

ACCEPTANCE OF THE AGENDA

Gary L. Smith motioned that the agenda be accepted as written.

Christopher Klasen seconded the motion.

VOTE: Unanimous.

The motion carried.

NEW BUSINESS

1. Review of Fire Marshal Job Description for Determination of Placement in Retirement Plan

Chairman Johnson advised the Board that the Local Board Attorney was present for the meeting and asked him to state his name. Stephen Coleman introduced himself and let them know he was there to offer legal advice to the Board. Chairman Johnson asked Mr. Coleman if he thought it would be necessary to go into executive session. Mr. Coleman stated it would depend on whether there were legal questions that the Board felt should not be discussed in public. He stated he did not think there was anything all that controversial or any real privacy interest. Mr. Johnson said

ok and that they would continue with the business at hand and asked for a staff report on item one, review of Fire Marshal job description for the Board to determine placement of the position in the Public Safety Personnel Retirement System (PSPRS) or the Arizona State Retirement System (ASRS). Secretary Barbara L. Fleming advised the board that the Fire Department wishes to fill positions of Fire Marshal and Fire Inspector as the current employees are retiring in the near future. She stated PSPRS requires that the Board determine if the positions are to be in the ASRS retirement system or the PSPRS retirement system. She stated each position would need to be discussed to determine placement and then voted on.

Chairman Johnson asked Mr. Coleman if he could give the Board some guidance. Mr. Coleman stated that generally for most positions to qualify for PSPRS, the employees must be regularly assigned hazardous duties that involve duties of a regular Firefighter. He stated in this case, they have two positions and starting with the Fire Inspector and his review of the job description he did not see anything in the duties that would meet that standard. He stated that most of that position's duties seemed to involve inspections, investigations, code enforcement and not actually something that would be considered hazardous duty. He stated that for the Fire Marshal, there is under the list of duties, something that says that he may take control of the scene in a response to a major incident. He stated the last line on the first page of the job description says 'responds to emergency incidents as required by departmental policy and assumes command of major incidents for those that require three or more units and directs the activities of responding companies.' Mr. Coleman stated he thought that duty would qualify, as it would be fire suppression, as a hazardous duty, but that the question would be, whether or not this would be a duty the Fire Marshal would regularly perform with some frequency or if it was something that would happen sporadically and very infrequently only when it's a major incident with three or more units.

Chairman Johnson stated he would like some guidance from the Chief on this particular issue because he wanted to know how often does this happen with the current Fire Marshal in that position (Fire Chief was not present).

Shawn Mott stated that going back to the Fire Inspector, there is something interesting in his job description that says 'he responds to commercial and residential fire alarms'. He stated the fact of the matter is when the current Fire Inspector is clocked in on duty, he is almost always available to respond to commercial and residential fire alarms whether those are false alarms or not; that the system has not determined if they are false yet. He stated the Inspector responds alone to those alarms and if those alarms end up being active emergencies or active incidents, he will be in command of those as well. He stated that is how the system was built with Sierra Vista Fire. He went on to say that as far as the Fire Marshal goes, same thing; in lieu of the Inspector, he can respond to 911 alarm activations, residential, commercial and that what that means is those could be 'pull stations' in apartment buildings or schools, those could be called in by alarm companies, or anything that could justify an alarm. Mr. Coleman asked when either the Fire Inspector or the Fire Marshal respond to the alarm, are they reporting to that scene with fire suppression equipment or protective gear or would they go and if they saw something hazardous, they would essentially disengage and call in the regular Firefighters and then take more of a supervisory role as opposed to placing themselves in the line of hazard? Mr. Mott responded that he could not speak to the Inspector because he wasn't sure if he carries turnout gear in his unit or not, but that he knew the Fire Marshal does because he has to go into IDLH atmospheres, which are 'immediately dangerous to life and health' atmospheres, to investigate fire cause and origin. He

stated the Inspector might too but he was not sure if he does or not but thought that he ought to if he is responding to 911 active alarm activations. He stated another thing is even if he, as a Fire Captain, responds alone to an alarm activation and finds a hazardous condition like Mr. Coleman was saying, OSHA states that he is not allowed to fully engage either. He stated there is a two in, two out rule where technically he shouldn't act alone; that he should have more fire suppression people there. He said what he would do as a line Firefighter is draw back from the scene, take command, and direct those suppression personnel as they come onto the scene. He stated his actions would be no different than the Inspector and the Marshal if they responded to an alarm activation that ended up being an actual incident. Mr. Mott stated that taking command is not disengaging, it is a necessary component of having an active emergency; that they would not be actively involved in fire suppression or whatever the hazard is. He said to keep in mind that there have been pull stations pulled for active shooter incidents where the active shooter has pulled alarms and the Fire Department has responded. Mr. Mott stated that then he would draw back, take command, request more units and as those units respond to the scene, direct them to what needs to be done. He stated if the Inspector and the Marshal responds to those incidents that is exactly what they are going to do if those incidents become active.

Chairman Johnson stated that they had two different job descriptions and that they had blended the conversation to both and asked if they could focus on the Fire Marshal to keep it separate and clear for everybody.

Chairman Johnson asked Mr. Coleman, in regards to the Fire Marshal job, did he have anything further to add. Mr. Coleman stated that the only other area that he thought would potentially constitute hazardous duty is that (in the job description) there are inspections of occupancies for hazardous chemicals, flammable and combustible liquids, or other life or fire hazards. He questioned would that combined with the incidents in which the Fire Marshal responds to an alarm which could potentially be an active fire or dangerous situation or would take command of a scene as mentioned in the job description; do those add up to something that the Board could say is a regular part of this position's job duties as opposed to something that happens once every six months. He stated because if regular then he thought they could make the argument that this does meet the requirements and the Board would have to make that very clear and a motion made on the record because the PSPRS Trustees or Board will review this determination and they will need to see the exact facts the Board is relying on so he would like to see some data on frequency to be able to support that determination.

Chairman Johnson stated it appeared to him that the Captain (Mr. Mott) had explained that under the circumstances it is much like a Marine, you are trained to be a rifleman but you may have other jobs; you might be a cook or an accountant so it seems that it's in line with perhaps this number 42 in the job description, regularly assigned to hazardous duties. So he stated he thought a PSPRS retirement would apply in this case.

Mr. Mott stated he did not know how the regularity of it would come into play. He asked if a line Firefighter does not get a structure fire for an entire year, is that still not his job and would he still be enrolled in PSPRS? He stated they cannot control the regularity of their incidents and so the Marshal might catch an incident twice a shift and he might catch two a year. He stated they cannot know that and doesn't know how they can base the regularity on how often he would get an incident. Mr. Mott stated it is in the Fire Marshal's procedure when he comes to work to log into the Fire Department's dispatch and be available to run those calls assigned for him and those

calls are commercial and residential alarms and whether or not any of those become active or real during his shift is not up to him. If he has a meeting where he is not available, someone else picks up those calls such as the Fire Inspector who would be the first line. If the Fire Inspector is unavailable, then a fire engine with three Firefighters onboard would respond.

Chairman Johnson asked Mr. Smith if he had any thoughts. Mr. Smith stated no, that he thought the Fire Marshal was clear cut.

Mr. Coleman stated he wanted to clarify that he did not mean how many time the Fire Marshal showed up a building that was actually on fire because he understood probably ninety five percent of the calls that the Fire Department responds to are not active fires; most of them are emergency medical situations. He stated the test is not how often is the building on fire but how often is the Fire Marshal put in a place where he may be required to perform hazardous duties; so the question is more, if you tell me ninety five percent of the time is going to inspect buildings to make sure that they have the right number of sprinklers, that it is up to code and the capacity is limited and there is no possibility of any hazardous duty happening and five percent of his time is responding to calls that could turn into a hazardous situation, he would tell the Board that the Fire Marshal is not regularly assigned to hazardous duty. So rather than focusing on how many times he shows up and the building is on fire, the question is what percentage of his time is doing stuff that could call upon him to perform hazardous duties vs. routine inspections where you go into a building with no risk of injury, nothing alarming about it, nothing that would present a hazard; just doing a code inspection. Mr. Coleman asked the Board if they had any data on what the split was, or approximately because if the Board does not make a record that at least gives some information, then there is a likelihood that it is going to be reversed by PSPRS or it is going to be sent back for the Board to go through the process a second time. He stated he was not trying to be difficult, he was trying to get the Board to a place where the decision the Board makes is well established and will be approved by PSPRS.

Ms. Fleming inquired of Mr. Coleman whether there was factor that could be used if they were trained and stayed trained like other people subject to those hazardous situations and was there a factor used as to whether they came from PSPRS system prior? Mr. Coleman stated that PSPRS will sometimes allow people to be in the system if they were previously regularly employed as a Firefighter and that the job they are entering into still has some connection to fire protection services. They would not allow someone to come in that was to be employed as a Finance Director and they say they used to be a Firefighter and they want to remain in PSPRS. PSPRS is restrictive and like to keep, as much as possible, the system to regular traditional Firefighters so that's always a plan B to rely on that second exception that this person was a Firefighter and the dates they were established in PSPRS and use that as a second alternative ground to argue that they should be included because they continue to remain active in at least a fire related position and they have a history. Mr. Coleman stated his recommendation was to make both arguments to put the Board in the strongest position. Ms. Fleming asked so they were to make an argument for PSPRS and against PSPRS? Mr. Coleman stated no, you make an argument that A: the person is regularly engaged in or assigned hazardous duties as the Fire Marshal and B: even if they do not meet that test, they were previously regularly engaged in hazardous duties in their prior position as a Firefighter and were members of PSPRS and are continuing to be employed in a fire protection related job.

Chairman Johnson stated he was trying to grasp the Fire Inspector based on what was said earlier that he is the second person in line for potentially hazardous duty. He stated he thought what the Board had to focus on was 'regularly assigned' not necessarily the hazardous duty that could perhaps come down the pike because he is already assigned to be able to respond and he felt that was one of the keys. Mr. Smith stated he did not see how you quantified that.

Mr. Klasen stated that to expand on that, the Fire Marshal and Fire Inspector you could say not only are they on the front end of these fire calls, going to and delegating command to whatever units are there, but on the back end when the job is done and the fire is out, they are also there to do their fire origin and cause so there is still an IDLH on the back end of these incidents; they are in a hazardous area. He stated that with their system this is one of their routes to succession planning; as a Captain, Engineer or Officer on a fire engine, they want to move these individuals into the Fire Inspector position as a tour of duty for the year or two years whatever it may be that keeps the lineage going up hill until a Battalion Chief or Deputy Chief position so they would stay in the fire service in their department as a promotional opportunity.

Mr. Mott stated that the fact that the Fire Inspector is second in line is just the way their dispatch system is set up. When the two positions are logged into the dispatch center as available to run calls, it is going to pull one or the other for those 911 calls. He stated it may pull the Fire Inspector first and the Fire Marshal second, he was not sure and then the third line would fall on a fire engine to respond to those calls. He stated it is not in the job description but that is how the dispatch system is set up. He also stated the current Fire Marshal has to go through a lot of the same command and control training that the Battalion Chiefs go to quarterly. He stated the current Fire Marshal and Fire Inspector have maintained their EMT certifications for all these years and that as far as he knew they were required to do that. Mr. Mott said as far as hazardous duty, it was not a matter of the question of time that they spend doing hazardous duty, it is the percentage of time they are on the clock that they are available to run 911 calls. He stated that as a Fire Captain, he could be on duty for twenty-four hours available to run calls and not run a single call so he spent zero percent time doing hazardous duty but he was available one hundred percent of that time or minus some training or minus a meeting he was available ninety percent of the time.

Chairman Johnson stated he was looking at the Fire Inspector job description and he did not see what Mr. Mott said but that he did see 'local response plan' and he thought that fit what Mr. Mott was saying. Mr. Mott stated yes. Chairman Johnson stated the job description should be reviewed for more clarification. Ms. Fleming stated the Fire Chief just updated both of the job descriptions and sent them over to Human Resources. She stated that she would send them back and tell them they still were not good.

Chairman Johnson asked Mr. Coleman if he had anything further. Mr. Coleman said he appreciated the point but that he would feel stronger about it if they at least had some anecdotal evidence saying it at least happens with some frequency and that the person is not just available but they actually respond to something. He felt there could be a follow up question, if you are available and you only respond twice a year, he did not feel that PSPRS would consider it met the standard. He stated he was not asking for statistics but if they had some anecdotal evidence that it would be helpful.

Mr. Klasen stated he did some research on some of the other fire departments close to Sierra Vista and for example, Fry Fire, their Fire Marshal is in PSPRS; Tucson Fire Department, Northwest,

Golden Ranch, the vast majority almost all of their Fire Marshals and Fire Inspectors were in PSPRS. He stated it was not uncommon to have both of the positions in PSPRS and that they were asking their Fire Marshals and Fire Inspectors to do the same duties as Sierra Vista was asking.

Chairman Johnson stated he saw this as a two-prong approach. Number one, they could argue all day whether regularly assigned met that standard but also, if the new applicants for these two positions were coming from PSPRS he was very hesitant to pull them out of that system. Mr. Mott said they most likely will be. Mr. Klasen said the heart behind that is the succession plan; they want them to come within their ranks to go through these positions so that would mean they would have to be PSPRS to follow that route.

Chairman Johnson said one of the concerns of the City is the financial viability of PSPRS and as a City Councilman he was very concerned about that. He stated he knew the City of Sierra Vista was doing a great job trying to make up for lost time and that they needed to start pushing the legislatures and he thought that was one of the hesitations as he is part of ASRS as a former County Attorney. He sees this as a two-prong thing. If the applicants are already in PSPRS why not keep them there because he thought the definitions, based on Mr. Mott's explanation, have fit the bill for him. Since they had the conversation today, he has done a one eighty on the issue. He stated he thought they were ASRS positions but based on what Mr. Mott said the duties are and looking at the fine print from a practical standpoint, an operational standpoint, he felt both positions fit PSPRS.

Mr. Smith stated what he would like to see, or what he thought needed to be done, with the job descriptions, and particularly the Fire Inspector, they needed to be tweaked with the SEACOM (dispatch center) response protocol. He stated he thought they should both stay PSPRS but that they needed to make the Fire Inspector job description stronger. Ms. Fleming stated it would not be 'stay' as currently the Fire Inspector is in ASRS. She stated the Fire Marshal is in PSPRS. She said they have been in those positions for a long time. Mr. Smith asked if the State (PSPRS) was going to review both of them? Ms. Fleming responded that was correct. That they were required to send them in for review when changes happen. Mr. Smith asked when anyone retires, the Board has to review the job description? Ms. Fleming stated not for a Firefighter but that these that were in place for a long time under either PSPRS or ASRS, they have to go in for review. She stated the Local Board had to review them, then they were sent to PSPRS to review the Board's review and recommendation and they either accept it or they send it back to the Local Board saying they reject it with the reason why. Ms. Fleming asked Mr. Coleman if that was correct. Mr. Coleman stated yes, that was correct or PSPRS could send them back with additional questions.

Chairman Johnson asked Mr. Coleman if the Board would need a motion? Mr. Smith stated that again, he would like to see the job descriptions reworked. Ms. Fleming stated the Board should not make a motion today, but to send the job descriptions back to the Fire Department for them to include the information they presented today because the Board will have to submit the job descriptions with the reasoning to PSPRS and they are not sufficient. Chairman Johnson stated that they were not prepared to make a Board decision today. Ms. Fleming stated she did not think so based on what Mr. Smith said regarding the job descriptions. Chairman Johnson said he agreed with Mr. Smith. Ms. Fleming said the job descriptions were just updated too. Mr. Mott asked Ms. Fleming did she think the Fire Marshal job description was substantive enough and that Fire Chief Jones admitted that the Fire Inspector job description needed to be tweaked and added to. Mr.

Smith stated for him the Fire Marshal job description was fine; that there was enough that they assume command but that he would like to see, in all the job descriptions, a reference to certifications. Ms. Fleming and Mr. Mott agreed those were missing. Mr. Smith stated every Firefighter needs certifications; engine certifications, EMTs, whatever and that the certifications needed to be added to both the job descriptions.

Chairman Johnson asked Ms. Fleming if the Board wanted to table this. Ms. Fleming stated it would be best to go get the job descriptions where they needed to be. Chairman Johnson agreed. Ms. Fleming stated the City did not need to start recruiting for the positions until the Board knows for sure and that everyone would be very clear as to what the expectations would be them and what the anticipated system would be (PSPRS or ASRS) because that will matter. She stated if it goes to ASRS then internal current Fire personnel will not be interested and vice versa since there is one in each retirement plan now.

Mr. Klasen stated that looking at qualifications for both positions, they reflect what certifications were discussed, especially in the Fire Marshal position. He said the Fire Inspector position requires three years as a career full time Firefighter, CPR and first aid. Mr. Mott read that the Marshal position requires EMT and Paramedic as well as NIMS. Mr. Klasen said the Fire Marshal is really in depth. Mr. Smith agreed and said he felt mainly the Inspector job description needed to be tweaked. Mr. Smith asked if there was any data out there, even newspaper articles, where the Fire Marshal and/or Fire Inspector were involved in Firefighting it would be helpful. Chairman Johnson stated maybe Fire Chief Jones could give the Board some anecdotal evidence as suggested by Mr. Coleman to support the PSPRS retirement system. Ms. Fleming stated that SEACOM (dispatch center) should be able to pull the data for the last year on what calls they have responded to for both positions and the Board would have that to submit to PSPRS. Mr. Smith said it would probably be a lot of EMT calls. Ms. Fleming stated she did not think they responded to those calls. Mr. Mott stated he worked a cardiac arrest where the Fire Marshal was first on scene just last year. He stated they had radios and computers in their rig and if they are right around the corner....and that technically if they are an EMT or a Paramedic and on duty, they have a duty to act. Ms. Fleming stated that it does say the Marshal has to maintain the EMT certification. Mr. Mott said and Paramedic for the Marshal as of January 1, 2022. Mr. Smith stated that duty to act may be something they could use.

Chairman Johnson stated that as chairman of the Board he felt they accomplished a lot today with the information and input given. He stated he would entertain a motion to table the two items of new business on today's agenda until the Board got beefed up job descriptions and perhaps some anecdotal evidence.

Gary L. Smith motioned that the Board table the two items under new business on the agenda.

Christopher Klasen seconded the motion.

VOTE: Unanimous.

The motion carried.

Mr. Smith asked if there were any comments from the attorney. Mr. Coleman stated no, he thought it was a good course of action because PSPRS is going to look at the paper job

descriptions and they may not focus as much on the minutes so if the Board thought that adding to both of them, even the Fire Marshal, a more in-depth explanation about duty to respond to calls as needed will help strengthen the argument that they qualify for PSPRS. He stated he thought they had a very strong argument and that this will make it stronger to update the job descriptions. Mr. Smith noted that Sierra Vista is small and sometimes Firefighters are at an accident and the Fire Marshal or Fire Inspector become the go to guy until other departments can arrive on the scene.

Chairman Johnson thanked Mr. Coleman for attending and that the Board appreciated his input.

REQUESTS OF THE BOARD

None

ADJOURNMENT

There being no further business to come before the Board, Chairman Gregory Johnson adjourned the meeting at 2:10 p.m.

Barbara L. Fleming, Secretary