

CITY OF SIERRA VISTA  
FIRE PENSION BOARD MEETING  
August 13, 2021

**CALL TO ORDER**

Chairman Gregory Johnson called the regular meeting of the City of Sierra Vista Fire Pension Board to order on August 13, 2021 at 1:32 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**

Christopher Klasen motioned that the agenda be accepted as written.

Shawn Mott seconded the motion.

VOTE: Unanimous.

The motion carried.

**NEW BUSINESS**

1. Review of Physical Examinations

Secretary Barbara L. Fleming advised the board that the physical examination pre-existing report for Garrett Welch needs to be acknowledged.

Barbara L. Fleming motioned that Garrett Welch's Pre-Existing Condition Report dated July 14, 2021 containing no pre-existing conditions be acknowledged effective August 13, 2021.

Christopher Klasen seconded the motion.

VOTE: Unanimous.

The motion carried.

2. Application for Retirement from the Deferred Retirement Option Plan (DROP) – Paul M. Cimino, Jr.

Secretary Barbara L. Fleming advised the Board that Paul M. Cimino, Jr. is applying for retirement from the Public Safety Personnel Deferred Retirement Option Plan (DROP).

Shawn Mott motioned that Paul M. Cimino, Jr.'s application for the Deferred Retirement Option Plan be approved effective August 31, 2021, with a benefit of approximately \$6,724.78 per month.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

**OLD BUSINESS**

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

Chairman Johnson stated the Board had a previous meeting on this topic. He stated they would look at the Fire Marshal job description first and that he believed the job description had been altered somewhat since the last meeting. He also stated that the issue the Board had at the last meeting was that they needed testimony regarding the Fire Marshal's response to emergency situations.

Ms. Fleming stated that yes, they needed Fire Marshal response information and they needed some records and data as recommended by Mr. Coleman, the Board Attorney. She stated that she just received this data from the SEACOM dispatch center for 2020 and 2021 (through August 13<sup>th</sup>). She also stated that the Fire Chief had revised the job description.

Ms. Fleming stated that there were a total of 22 responses for year 2021 for both the Fire Marshal and the Fire Inspector combined. Chairman Johnson asked Mr. Coleman if he had received the stats. Mr. Coleman replied that he just got them in. He went on to say "Yeah, as you recall from our last conversation, the question is whether or not these two positions are regularly assigned to hazardous duties and there are a number of things that are clearly hazmat duties that were reflected in the job description and that was the Fire Marshal taking command of the scene and responding to major incidents and possible exposure to hazardous material. But, in addition to

that, I recall we have the testimony that both the Fire Marshal and the Fire Inspector are required to respond to alarms and that these alarms, any one of these alarms could involve fire suppression incident/hazardous duty and that was the data we were looking for; to see if this was something that happened infrequently, that was perhaps twice a year, or if this was something that was a regular, ongoing part of the job. And based on the data that's reflected in terms of the volume of calls here and the description of the calls, it seems to me that I think it could be concluded that this is a regular, recurring part of these positions' duties. In that, in addition with the other hazardous duties that we identified earlier, I think support a conclusion that they would qualify for PSPRS membership. And then also as secondary argument, if you recall, that people previously been in the PSPRS retirement system may qualify even if they don't meet the regular duty requirements, so long as, their position is in some way related to fire suppression activities. And so, I think for both those grounds, it would be my view that these positions are qualifying positions for membership in PSPRS".

Chairman Johnson asked Mr. Coleman "What about the Fire Inspector? Are you including that in your conclusions"? Mr. Coleman asked if the document was just for the Fire Marshal or was it both. Ms. Fleming stated that it was for both the Fire Marshal (201) and the Fire Inspector (202). Mr. Coleman responded, "So 202, at least mine, are embedded in my email so it is hard to tell what the pagination is, 202 looks like there are 9 calls". Ms. Fleming stated "For 2021, yes. It's 9 for 202". Mr. Coleman noted "9 and 13 but then isn't that for 2021 but that's obviously just the 6-month or 7-month period that we're looking at. I think I'm now able to decipher these documents. So, in 2020, the Fire Inspector had 21 and the Fire Marshal, looks like, had 32 and there were 7 they responded to jointly. Ok, so we're talking about 28 incidents in 39. I still think that both of those would support something that is a regular part of an employee's duty for both positions to be clear".

Chairman Johnson asked Mr. Smith if he had any thoughts on the subject. Mr. Smith replied "I do have a question on, I'm looking at one of the emails, I think it was sent by the State Board, and it's defining .... they're talking about ARS 38-841, section 31, and it's defining a member. And if you go to I, it says, 'paid municipal police officer or paid firefighter'. That's all you have to be is a paid firefighter to be a member of the Public Safety System. So, I don't know what the HR plan to this is, but if you want Firefighters to move into these positions, then you just make it qualify for Firefighters and they qualify under this statute, is the way I see it. It's pretty simple. Then you don't have to worry about all these numbers. There may be a secondary argument, but we have other departments here in the City who have temporary positions. And at the Police Department, you can be a temporary Detective, but you're still a Police Officer. And you slide in for two or three years and you do that job and then you slide back out and you go back to patrol or wherever you came from. I'm saying, a very similar thing here, if the plan is to have Firefighters fill these positions, you just say one of the qualifications is that you have to be a Firefighter with the City of Sierra Vista and then, to me, that qualifies under this statute by definition as a Public Safety member; therefore, retirement. To me it's that easy. Now, I may be viewing that wrong, but I'm just looking literally at the definition. It just says a paid Firefighter. Doesn't say full-time or part-time, just says paid Firefighter. So, I don't know what logistics or other issues that would arise, but that's what I would include".

Chairman Johnson stated he saw a consensus building and asked Ms. Fleming if she had any thoughts. Ms. Fleming explained that the Fire Marshall & Fire Inspector are full time 40-hour employees and a Firefighter is on a 24/48 schedule. Mr. Klasen stated that's why it's a

promotable position. Ms. Fleming stated yes. Mr. Smith suggested the positions (Marshal & Inspector) require they be Firefighters and do a dual role to which Ms. Fleming explained that can't be done because a Firefighter works a 24-hour shift and those positions work an 8-hour shift. The Firefighters work 112 hours pay periods versus an 80 hour pay period.

The conversation went as follows:

Mr. Smith: Well, require them to be a Firefighter to be into the position.

Mr. Klasen: You mean a dual role?

Mr. Smith: Well, sure. It's like a...

Ms. Fleming: It can't be dual.

Mr. Smith: Why?

Ms. Fleming: Because they can't work the 24-hour Firefighter shift and then work the...

Mr. Smith: Why would they have to?

Ms. Fleming: Because if they're a Firefighter, I mean if that's the position they are, they're an actual Firefighter.

Mr. Smith: Well, the DARE officer at the Police Department is a Police Officer and he works a completely different shift than the rest of the officers.

Ms. Melanson: But there's a difference. One is paid 112 hours and one's paid 80 hours. They're on totally different schedules.

Ms. Fleming: Because they do the 24, they're on 24-hour shifts.

Mr. Mott: I think the point is, I think what you're (Mr. Smith) trying to get at is, the credentials of who qualifies for this position.

Mr. Smith: Yeah, who do you want to qualify for it.

Mr. Mott: And we do want trained Firefighters to qualify for the position because they can help with the actual emergency response as well. And so, our call volume goes up every year so this kind of bolsters our forces.

Chairman Johnson: So, I look at it this way, the Fire Marshal, if he happens to be on duty at that particular time and responds to a call, he's a Firefighter at that point in time. Even though, he's riding a desk a lot of the time.

Mr. Mott: That's right.

Mr. Klasen: He's always a Firefighter. A Police officer is a Police Officer but just in the role of a Detective.

Mr. Smith: Yeah, the DARE officer is going to respond to shootings or, I mean, just like anyone else. Again, that's why I said, I don't know the logistical thing from the HR standpoint. But, you know, can hours be modified on these to meet the requirement, I don't know. What hours do you have to do inspections and stuff? I don't know the logistics of it. But, just strictly from statutory definitions all he's got to be is a paid Firefighter.

Chairman Johnson: What would be the normal hours of the Fire Inspector and the Fire Marshal?

Mr. Mott: Monday through Friday because they have to do inspections.

Chairman Johnson: Do they ever respond when they're off duty.

Mr. Mott: Yeah, they do.

Chairman Johnson: So, we wouldn't be able to tell from this information...

Mr. Klasen: An on-call situation.

Mr. Mott: And they'll flex those hours or something, but I think everybody in the room is pretty much saying the same thing. Yeah, they're an 80-hour position because they have to work Monday through Friday. But, in those hours, they can get toned out to a 911 call, whether it be a fire alarm or otherwise. And then also, they might get dispatched out to a scene to help with an

investigation, let's say after hours and they can flex that time. Like any other, like the Fire Chief can. Is that right?

Ms. Fleming: Yes.

Mr. Mott: They're a Firefighter; they are. They just can't work the same schedule that we would.

Chairman Johnson: It's like the Police Department, you have a Detective bureau that is there Monday through Friday, but they're always on call. If we have a shooting at Filiberto's drive-thru, then everybody has to answer their phone.

Mr. Smith: Okay, to help me wrap my head around this hour thing. In a two-week period, a normal work week would be 80 hours. What would it be for a Firefighter?

Ms. Fleming: 112.

Mr. Smith: Okay, so you're talking 22 more.

Ms. Fleming: Firefighters are paid completely different because the Fair Labor Standards Act has very special provisions for Firefighters, modified Kelly schedules, which is what ours do. So, they don't necessarily work 112 every week, it depends on their shift, but they are working the 24/48 hour shifts and the way they're paid overtime is very different. It is a very different pay system.

Mr. Smith: Okay, let's say, the Fire Marshal works 80 hours a week doing primarily Fire Marshal stuff, just for sake of conversation. Does not a Firefighter have to go through continual training and certifications?

Ms. Fleming: The Firefighter?

Mr. Smith: Yeah.

Ms. Fleming: Yes.

Mr. Smith: So, is it possible for management to say, okay 80 hours you're the Fire Marshall and then to make up the other hours to be equal with the rest of the Firefighters, you'll do in service training, you'll maintain your certifications, you'll do that. There may be some overlap to work, for example, you may do fire inspections say on a Saturday because you're in all day training. Is that a possibility?

Ms. Fleming: No. So, in order to be...

Chairman Johnson: It's more of a management, HR, and management of the fire department's job.

Ms. Fleming: Yeah, they can bring them in and stuff but they cannot be classified within the way that we pay the Firefighters.

Chairman Johnson: Okay.

Ms. Fleming: So, we use the Fair Labor Standards agreement to where we pay them 112 hours for certain criteria they must meet, including like being on 24-hour shifts, to be paid Firefighters and they're all paid like that. These can absolutely come in and do the fire training and stuff, but they couldn't be classified as a Firefighter, or they would have to be paid under the 112 system.

Mr. Smith: All I'm saying is to get that 112, could they not inspect for 80 and then the rest would be training?

Ms. Fleming: They have to be working on the 24-hour shifts because they're paid on a 112 even if they don't work 112.

Chairman Johnson: Steve, do you have further comments?

Ms. Fleming: Maybe Steve can explain it a little bit better.

Mr. Coleman stated "One of the things I want to comment on. There was a reference to the definition of member on Section 31 of the PSPRS statutes and there are multiple parts to it. So, the member reads 'any full-time employee who meets certain of the following qualifications'. So, it says full-time employee, either a paid municipal Police Officer or paid Firefighter, and then the person must be primarily assigned to firefighting duties. And then, it also states that the person

has to be 'is or was regularly assigned to hazardous duty'. Then, it talks about that the customary employment is at least 40 hours per week or where there is a fluctuating or regular schedule that the person customarily averages that amount when you average out the working hours. So, I just wanted to clarify that it's not sufficient to just hire somebody and say you're a Firefighter, you're now a member. There are multiple components here that need to be met versus primarily working as a Firefighter and that they are currently, or were assigned to hazardous duty, on a regular basis and they're considered to be a full-time employee. So, one more thing, they have to be worked at least 6-months in each calendar year.

Mr. Smith stated he did not have that information. Ms. Fleming stated "So, if I understood you correctly earlier, based upon the call logs that were pulled, they (Marshal & Inspector) meet the criteria." Mr. Coleman stated "I believe they do because they used to be Firefighters and regularly engaged in hazardous duty. They will be on, at least twice a month it seems by call volume, on average responding to calls that could involve reports of smoke, reports of fire, alarms, hazardous or dangerous situations. And in addition to that, there will be some time that, at least for the Fire Marshal, he will be taking command of a scene where there is critical or large incidents. Part of the inspection duties could involve the inspection of hazardous materials, where there could be exposure. And also, even doing an inspection in the aftermath of a fire could involve hazardous duty because you could be in a structure that is unsafe or could still be potentially dangerous. So all of that, I think in totality, would support a good faith belief that these employees are regularly engaged in some form of hazardous duty plus they were previously engaged in hazardous duty which also strengthens the argument for their eligibility for PSPRS membership. So, the important thing is that if that's the direction the board decides to go, that the board makes clear, what evidence they're relying on because this will be reviewed by the PSPRS Board of Trustees and they'll look at the information in the record. If the information is there to support the conclusion, then they will approve the decision. If they do have questions, then they can send it back to the (Local) Board for further proceedings".

Ms. Fleming asked of Mr. Coleman, "Would you recommend that we use these call logs for that"? Mr. Coleman answered "Yeah, I would recommend that you rely on the call logs, as well as, we heard testimony at the last hearing about the nature of what these calls are. As well as, the information we previously discussed about inspections and possible exposure to hazardous material, taking command of scenes, and the possibility of even being exposed to dangerous in the aftermath of fire when there is inspection as to the cause. So, I believe all of those things, in totality, that would be what I recommend that the board rely on. Plus, I would also want to make sure that it's clear on the record that the persons who will be occupying these positions, both were previously members, as I understand it, of PSPRS, has what I would call more regular, more traditional Firefighters, prior to becoming a Fire Inspector and Fire Marshal". **(Note: The current Fire Marshal is in PSPRS. The current Fire Inspector is retired PSPRS so is currently in ASRS. When the Inspector retires in a few months, the position will be filled with a current Firefighter if PSPRS approves the Inspector position to be PSPRS).**

The discussion continued as follows:

Chairman Johnson: I believe that the new job descriptions that we received today will fulfill that.

Ms. Fleming: It doesn't...There's not anywhere in them that require them to have previously been Firefighters.

Chairman Johnson: No, but we've got 'respond to 911 activations and respond to commercial for command function and investigations' as part of this SEACOM operational response plan.

Ms. Fleming: Yeah, the actual duties; just nothing in the qualifications that require them to be prior Firefighters.

Mr. Smith: Is that something that we need to add?

Ms. Fleming: (Looking at job description) Just checking to make sure.

Mr. Smith: Can that be added? Again, kind of going back to my definition thing.

Mr. Klasen: Not sure if you want to add it that way in case we do not go in-house for these roles down the road.

Ms. Fleming: Yeah, there's been a question on the Inspector from the Fire Management...go ahead.

Ms. Melanson: That doesn't make sense because if you want them to be PSPRS and you're talking about having previous fire experience, it doesn't matter if it comes from the outside. They just have to be Firefighters; Firefighter experience. Otherwise, you have to turn it around and be ASRS.

Mr. Klasen: Well, I mean, it depends who's in that role, where they come from.

Ms. Melanson: Right, but I thought the whole point was you wanted these to be PSPRS.

Mr. Klasen: We do. I'm just saying down the road if anyone within the department was not...

Ms. Melanson: Then you would have to do this again.

Mr. Mott: It says Firefighter experience desired.

Ms. Melanson: Desired. But I'm wondering if it needs to be required.

Ms. Fleming: Yeah, should we put Firefighter experience required in these, Steve?

Mr. Coleman: I believe that was, I haven't seen the current version, but I believe that the original version did say that it was required.

Ms. Fleming: It says preferred, but we can change.

Mr. Coleman: Was it preferred or was it required.

Ms. Fleming: On the Fire Marshall, it says preferred.

Chairman Johnson: We can change that.

Ms. Fleming: But we can say required. Because they've got to have a Fire Science degree, Fire Officer I, Fire Inspector.

Mr. Coleman: So, Barbara, I'm looking at the Fire Marshal, maybe this has changed, but the original job description says "qualifications: 7years experience as a municipal Firefighter, two of which must be a Captain rank".

Ms. Fleming: Yeah, that's what it says.

Mr. Smith: In the old one or new one?

Ms. Fleming: In the one we got today, the one we have right now.

Chairman Johnson: In the Fire Inspector, it says 'Firefighter experience desired' on page 3, right at the very top.

Ms. Fleming: Yeah, the Fire Marshal says required. The Fire Inspector says preferred.

Chairman Johnson: We can change that.

Mr. Mott: The reason why the Marshal's says '7 years experience with 2 as a Captain' because they're in line with the BC on the class/comp. Right Barbara? So, they're essentially a Battalion Chief.

Ms. Fleming: Yes.

Mr. Mott: Which is the same qual as a Battalion Chief, is 7 years experience with 2 of those being a Captain. So, that makes sense that the Fire Marshal says that because they're on the same scale right?

Ms. Fleming: Yeah.

Mr. Smith: I almost like the first definition better.

Mr. Mott: But again, the Marshal is a higher up position than the Inspector. So, the Inspector wouldn't have to be 7 years experience and 2 as a Captain because it's not a BC level position.

Ms. Melanson: I don't think that's what they're saying. They're just saying that Firefighter experience...

Mr. Coleman: If I can make a comment, I don't know if this has changed. The version of the Fire Inspector job, it sort of has two contradictory statements. It says "minimum 3 years experience as a career full-time Firefighter" and then it says "Firefighter experience desired".

Ms. Fleming: Yeah, it still says Firefighter experience desired. I think they took that contradiction out and it just says...

Mr. Coleman: They removed the minimum 3 years?

Ms. Fleming: Yeah, it just says "Firefighter experience desired".

Mr. Mott: Could we just change desired to required then?

Chairman Johnson: Yeah, I think so.

Mr. Mott: Awesome.

Chairman Johnson: That's what I would do. Based on our time here, we're coming up to the, do we have any further discussion from anybody?

Chairman Johnson: I would like to entertain a motion that the Fire Marshal job be, let's see if we can get the right language on this one, be presented to the PSPRS Board as a PSPRS classification job description for the Fire Marshal here in Sierra Vista. Does that make sense?

Ms. Fleming: Yes.

Mr. Klasen: I'll make a move for that.

Mr. Mott: I'll second.

Mr. Coleman: Mr. Chairperson? Mr. Chairman? Can you just for the record state that, I believe this is your intent, for the reasons that we've discussed regarding the regular engagement in hazardous duties.

Chairman Johnson: Oh, okay sure. I'll amend the motion, the original motion, that the Fire Marshal job description be presented to the PSPRS Board, that's up in Phoenix right?

Ms. Fleming: Yes.

Chairman Johnson: Based on our discussion of the Firefighter's (Fire Marshal's) responsibilities, as well as, his prior assistance at hazardous and active fires and further along investigations. And we've had a full discussion here over two sessions to make sure that the PSPRS system is assigned to this job description.

Mr. Klasen: I'll make a motion.

Mr. Mott: I second.

Chairman Johnson: Any further discussion? (None) Okay. Call for the question. All in favor?

Quorum: Aye.

Chairman Johnson: Opposed? (None) The motion carries.

Chairman Johnson: The second one is that the Fire Inspector job description for the City of Sierra Vista be presented to the PSPRS Board for placement in the Public Safety Personnel Retirement System based on lengthy discussion of the Fire Inspector job description as far as the Fire Inspector job requirements to actively go to certain scenes for investigation as well as, command and control of the fire scene. We've discussed this at this Fire Pension Board over two sessions and I will entertain that motion.

Mr. Mott: I'll make a motion.

Mr. Klasen: I'll second.

Chairman Johnson: Okay, we have a move and second. Any further discussion? (None) Call for the question. All in favor?

Quorum: Aye.

Chairman Johnson: Opposed? (None) Motion carries.

### **REQUESTS OF THE BOARD**

None

### **ADJOURNMENT**

There being no further business to come before the Board, Chairman Gregory Johnson adjourned the meeting at 2:05 p.m.

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Gregory Johnson, Chairman