

AD HOC DISABILITY DETERMINATION PROCESS SUB COMMITTEE

RETIREMENT SERVICES

1737 No. First St., Sixth Floor Boardroom. Suite 600

San Jose, CA 95112

COMMITTEE MEMBERS

Matt Loesch, Chair -Present
Ed Overton, Vice-Chair -Present
Arn Andrews, Trustee -Present
Michael Armstrong, Trustee (Alternate) – Not Present

DEPUTY DIRECTOR RETIREMENT SERVICES

Donna Busse - Present

BOARD MEDICAL DIRECTOR

Rajiv Das, M.D.

ALSO PRESENT

Sonia Morales

COUNSEL

Mollie Dent, Sr. Deputy City Attorney

THURSDAY

May 26, 2011

10:30 A.M.

MINUTES

1.1. Approval of minutes for April 28, 2011, Ad Hoc Disability Determination Process Committee Meeting.

Approved. (M.S.C. – Andrews/Overton, 3-0-0)

1.2. Review and action on staff memo recommending changes to the Federated Disability Process.

The committee recommended the following changes be made to the staff memo:

a. Quarterly Disability Board Hearings.

The committee agreed to recommend Disability Board Hearings be held quarterly instead of monthly.

b. Formalize the Board Disability Hearing.

The Subcommittee discussed changing text in the cover memo that states: "...based on input from legal counsel", a prepared script for the chair of the Disability Hearing Committee, and swearing in of the applicants and witnesses. They requested that Ms. Dent revise the wording regarding the introduction of evidence and authorized the chair to review the final document.

Trustee Overton was opposed to the swearing in of applicants and witnesses. Ms. Dent added that we don't need to swear in the witnesses if we clarify who is offering testimony. It was suggested that Dr. Das' report could have added language in his report regarding true summary and opinion, instead of affirming that fact in the hearing.

c. Improve Communication to Applicant.

The Sub-Committee was satisfied with the content of item c.

d. Increase Training for Board Members.

There were several options suggested to increase Board Training. They were video training from past meetings, an enhanced version of Dr. Das' 15 minute presentation, and a PowerPoint presentation.

e. Reformat Disability Packet.

The committee suggested that sub headings be added to the packet.

Ms. Dent advised that item 1c in the guidelines was correct.

f. Require Applicant to Withdraw Application.

Require applicants to proceed with Subcommittee Hearing within six months from when Medical Director's Report states that the applicant has achieved Maximum Medical Improvement. Deferrals are only allowed when there is new evidence to add to the file; however, without new evidence the case must be heard or the application withdrawn, unless there are extenuating personal circumstances.

g. Recommend to the City Council the following:

A correction was made that the recommendation should be made to the City Manager and not the City Council.

The recommendations to the City Manager are as follows:

- Earlier medical intervention by Employee Health Services in Worker's Comp Process
- Work with the CAO on securing legal representation for the City in reviewing and, as appropriate, in opposing disability retirement applications. City Manager's Office consider asking the City Attorney's Office to provide legal representation for the City administration in opposing disability retirement applications.
- Request an opinion from legal counsel on whether and how the Plan itself can secure legal counsel to oppose disability retirement applications, should the City elect not to provide legal counsel to the City administration in opposing applicants.

1.3. Discussion and action on Quarterly Meeting dates.

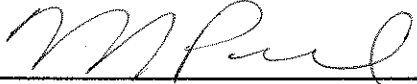
A motion was made to recommend quarterly meetings to the Board, possibly in the months of February, May, August, and November of 2012.

Approved. (M.S.C. – Overton/Andrews, 3-0-0)

1.4. Discussion and possible action regarding Board training.

Suggestions for Board training included a mock video and the translation of terms used by Dr. Das could be an appendix to his report.

1.5. Adjournment: 12:27 p.m.



**MATTHEW LOESCH, P.E., CHAIR
BOARD OF ADMINISTRATION**

ATTEST:



**RUSSELL U. CROSBY, DIRECTOR
BOARD OF ADMINISTRATION**