

DEPARTMENT OF CITY CLERK

CITY HALL

DECEMBER 3, 2008

The Retirement Board of the Employees' Retirement System meets this day at 10:30 o'clock A.M., in the Aldermen Chamber, Third Floor, City Hall.

PRESENT: Chairman Pasquale T. D'Amico, Vice-Chairman James Potenza, Sharon Gleckman, Harold Zacks, Kerion O'Mara, Carla Dowben, Susan R. Lapidus, Stephen T. Napolitano, Treasurer and David Dillon – 9.

ABSENT/EXCUSED: Pasquale Grieco, Councilman John J. Igliazzi, Bruce Miller, Finance Director and Wallace Demary– 4.

Also present are Kenneth Chiavarini, Senior Assistant City Solicitor, Law Department; Dr. Guy Geffroy, Medical Advisor; Octavio Cunha, Pension Administrator; Rob Upham, Department of Human Resources; Gregory Smith; Paul Doughty, President, Providence Firefighters Local 799; Bruno Armenti, Armenia Armenti; Mark P. Gagliardi, Esquire for Mr. Armenti; Anna M. Stetson, City Clerk and Sheri A. Petronio, Assistant Clerk.

(Subsequently, Mr. Miller joins the meeting)

1. Approval of Minutes: October 2008

MR. NAPOLITANO: So moved.

MR. O'MARA: Second.

On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to approve the foregoing matter.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed.

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2. **Disability Committee Report: Dr. Guy Geffroy, Medical Advisor
Closed Session: RIGL 42-46-4 and RIGL 42-46-5 (a) (1) (Specific
to discussion regarding physical or mental health of a person)**
 - a. **Bruno Armenti – Accidental Disability**
 - b. **Jeanna DiFillippo – Accidental Disability**
 - c. **David Higgins – Accidental Disability**
 - d. **Donald Kanarian – Accidental**
 - e. **Richard Lima – Accidental/Ordinary Disability**
 - f. **James Petterson – Accidental Disability**
 - g. **Jay Priddy – Accidental Disability**
 - h. **Francis Quetta – Ordinary Disability**

VICE-CHAIRMAN POTENZA: The first candidate Mr. Bruno Armenti.

The Medical Sub-Committee's recommendation to the full board is to deny accidental disability.

MR. NAPOLITANO: So moved.

MR. O'MARA: Second.

CHAIRMAN D'AMICO: Do you have an attorney with you? Would you like to speak to the full board?

MR. GAGLIARDI: Sure. Good morning, everybody. I am here on behalf of Mr. Armenti. We respectfully request that Mr. Armenti's application be granted. Obviously we have a difference of opinion with regards to the recommendations. Two of the doctors opined that Mr. Armenti was capable of light duty but there is no light duty available for his position as a Highway Construction Foreman so, therefore, he is permanently disabled. Our other difference is that only one of the doctors consulted with Mr. Armenti's primary care physician doctor and only that doctor, Dr. Feldman, is of the position that Mr. Armenti met all requirements of the accidental disability statute. I would just like to ask the board if my client could speak.

MR. O'MARA: He can't talk about his medical condition.

MRS. DOWBEN: Maybe he isn't.

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SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Let me just address the board. The basis for the recommendation is the Chairman of the Medical Sub-Committee wants to agree that the basis was that there was no unanimity relative to the individual being totally and permanently disabled. The other questions that Counsel raised was the lack of or the inability of all three doctors speaking with the primary care physician. As this board knows, the independent medical evaluation is conducted by our physicians and there is no requirement that any of the doctors consult with the applicant's physician. In this case, one of the doctors did and I don't know the basis of it, but there is no requirement that that had to be an independent medical evaluation. We like them to be unbiased and totally neutral when they provide this board with a recommendation. So, as far as the applicant speaking, he did address the Medical Sub-Committee. It's clearly at this board's discretion if you would like to hear him. Mr. Chairman, it's this board's decision if they would like to hear Mr. Armenti relative to his application.

CHAIRMAN D'AMICO: Well, a motion has been made to deny.

VICE-CHAIRMAN POTENZA: That was the recommendation before the Medical Sub-Committee and Mr. Napolitano made the motion to deny.

CHAIRMAN D'AMICO: And you seconded it?

MR. O'MARA: Yes.

CHAIRMAN D'AMICO: Do you want to call a roll call?

On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to deny the application for accidental disability of Bruno Armenti, by the following Roll Call Vote:

AYES: Chairman D'Amico, Vice-Chairman Potenza, Ms. Gleckman, Mr. Zacks, Mr. O'Mara, Mrs. Dowben, Ms. Lapidus, Mr. Miller, Mr. Napolitano and Mr. Dillon – 10.

NAYES: None.

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ABSENT/EXCUSED: Mr. Grieco, Councilman Igliazzi and Mr. Demary –

3.

Motion Carries.

Mr. Miller joins the meeting.

VICE-CHAIRMAN POTENZA: Next candidate is Jeanna DeFillippo for accidental disability. The Medical Sub-Committee recommended to the full board to deny accidental disability.

MR. NAPOLITANO: So moved.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Mr. Chairman, the basis for the denial was that there was a lack of permanency by the medical consultant.

CHAIRMAN D'AMICO: Who made the motion?

VICE-CHAIRMAN POTENZA: Mr. Napolitano.

CHAIRMAN D'AMICO: Who seconded it?

VICE-CHAIRMAN POTENZA: I will second it.

CHAIRMAN D'AMICO: This has to be a roll call vote to?

MS. LAPIDUS: They all do.

CHAIRMAN D'AMICO: All right.

On motion of Mr. Napolitano, Seconded by Vice-Chairman Jackvony, it is voted to deny the application for accidental disability of Jeanna DiFillippo, by the following Roll Call Vote:

AYES: Chairman D'Amico, Vice-Chairman Potenza, Ms. Gleckman, Mr. Zacks, Mr. O'Mara, Mrs. Dowben, Ms. Lapidus, Mr. Miller, Mr. Napolitano and Mr. Dillon – 10.

NAYES: None.

ABSENT/EXCUSED: Mr. Grieco, Councilman Igliazzi and Mr. Demary –

3.

Motion Carries.

VICE-CHAIRMAN POTENZA: Next candidate Mr. David Higgins for accidental disability. The Medical Sub-Committee recommends granting accidental disability.

MR. NAPOLITANO: So moved, Mr. Chairman.

MR. O'MARA: Second.

CHAIRMAN D'AMICO: Call the roll please.

On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to grant the application for accidental disability of David Higgins, by the following Roll Call Vote:

AYES: Chairman D'Amico, Vice-Chairman Potenza, Ms. Gleckman, Mr. Zacks, Mr. O'Mara, Mrs. Dowben, Ms. Lapidus, Mr. Miller, Mr. Napolitano and Mr. Dillon – 10.

NAYES: None.

ABSENT/EXCUSED: Mr. Grieco, Councilman Iglizzi and Mr. Demary – 3.

Motion Carries.

VICE-CHAIRMAN POTENZA: Next candidate Mr. Donald Kanarian for accidental disability. The Medical Sub-Committee recommended a one month continuation.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: My understanding is that there was a request from Mr. Ruggiero to the board to continue one month so Mr. Kanarian can go to retirement and explore options of on taking the service pension rather than pursuing accidental disability.

MR. NAPOLITANO: So moved, Mr. Chairman.

MR. O'MARA: Second.

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On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to continue the application for accidental disability of Donald Kanarian.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed.

VICE-CHAIRMAN POTENZA: Next applicant Richard Lema for accidental disability/ordinary disability. Mr. Lema was up for reconsideration in front of the Medical Sub-Committee and the Medical Sub-Committee's recommendation would be to deny reconsideration for accidental disability with one dissenter.

MR. NAPOLITANO: So moved, Mr. Chairman.

MRS. DOWBEN: I second it.

CHAIRMAN D'AMICO: Clerk, call the roll please.

On motion of Mr. Napolitano, Seconded by Mrs. Dowben, it is voted to deny the application for accidental disability of Richard Lema, by the following Roll Call Vote:

AYES: Chairman D'Amico, Ms. Gleckman, Mr. Zacks, Mr. O'Mara, Mrs. Dowben, Ms. Lapidus, Mr. Miller, Mr. Napolitano and Mr. Dillon – 9.

NAYES: Vice-Chairman Potenza – 1.

ABSENT/EXCUSED: Mr. Grieco, Councilman Iglizzi and Mr. Demary – 3.

Motion Carries.

VICE-CHAIRMAN POTENZA: Based on the denial of the recommendation by the board Mr. Lema is up for ordinary disability of which the Medical Sub-Committee's recommendation was to approve with one dissenter.

MR. NAPOLITANO: I move approval, Mr. Chairman.

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CHAIRMAN D'AMICO: So I have a second?

MR. O'MARA: Second.

VICE-CHAIRMAN POTENZA: This is for ordinary disability.

On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to grant the application for ordinary disability of Richard Lema, by the following Roll Call Vote:

AYES: Chairman D'Amico, Ms. Gleckman, Mr. Zacks, Mr. O'Mara, Mrs. Dowben, Ms. Lapidus, Mr. Miller, Mr. Napolitano and Mr. Dillon – 9.

NAYES: Vice-Chairman Potenza – 1.

ABSENT/EXCUSED: Mr. Grieco, Councilman Iglizzi and Mr. Demary – 3.

Motion Carries.

VICE-CHAIRMAN POTENZA: Next candidate is Mr. James Petersen for accidental disability. The Medical Sub-Committee recommended that there be a continuation.

MR. NAPOLITANO: Mr. Chairman, I think we can take items f., g. and h. together because the recommendation from the Medical Sub-Committee, as I understand it, is that all three items be continued.

VICE-CHAIRMAN POTENZA: If you could take line item f. and g. together and then line item h.

MR. NAPOLITANO: Okay.

VICE-CHAIRMAN POTENZA: Item f. and g., Mr. James Peterson and Mr. Jay Priddy will be continued indefinitely until we have a finalization on the cancer ordinance.

MS. STETSON: When you continue something indefinitely that means you're taking it out completely.

VICE-CHAIRMAN POTENZA: We will continue one month.

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MR. NAPOLITANO: So moved.

MR. O'MARA: Second.

On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to continue the applications for accidental disability of James Petersen and Jay Priddy.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed.

VICE-CHAIRMAN POTENZA: Next candidate line item h. is Mr. Francis Quetta for accidental disability. The Medical Sub-Committee's recommendation is to continue for one month. My question to the full board, and if Mr. Cunha could address the board on Mr. Quetta, being 60 years old and he will be out of the payroll as of December 31st and into the retirement system January 1st because of him being 60 and based on his age. Now I would like Mr. Cunha or the counsel to tell us what Mr. Quetta's status will be.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: The application is applied for under the new Cancer Presumptive Ordinance. There is a provision that allows a retired individual the ability to apply for an accidental disability. This individual is already in the pipeline, the application is pending and it's before the board. I do not believe that the individual should be harmed since that application is already pending at no fault of his own and that has been continued. So, I would suggest even though mandatory time is age 60 that should have no impact on his application pending before the board.

MR. DILLON: So what happens in January? What does he do for money in January?

MR. NAPOLITANO: He's IOD now isn't he?

VICE-CHAIRMAN POTENZA: He is IOD but he will not remain IOD. He will be off the payroll.

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SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: We have the ability, and we've done this in the past, if in fact we've done an offset or we've done an adjustment, if at the January meeting this board chooses to grant the accidental disability benefit we can then go and do the adjustment from the service retirement.

MR. O'MARA: Mr. Chiavarini, I just have one question. Under the state cancer bill wouldn't he still remain IOD even after 60?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't know.

MR. O'MARA: Because I think there has been an arbitration decision where you can't force somebody off just because they're IOD.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Are you asking under the State Retirement System or the State IOD?

MR. O'MARA: Under the state law, the Presumptive Cancer.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: That has no applicability to our situation and there is case law to that as well. That was the basis for the City Council passing an ordinance because in my position that wouldn't apply. In this particular scenario, yes, he will be retired from the department but I don't believe that should impact his application pending before the board.

MR. DILLON: Doesn't he have enough service? Wouldn't it almost be more? It wouldn't be another situation where it wouldn't really make a difference in the amount of the pension he gets.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Quite frankly, if in fact at the next board meeting, which is January, I don't think the process will be affected even if there was a determination on the service pension. I think if it's that close in time we can call the actuary and let him do the adjustment before any monies are paid out.

VICE-CHAIRMAN POTENZA: Mr. Doughty.

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PAUL DOUGHTY: I am the President of the Providence Firefighters. I'm not sure it's even the purview of the board to actually retire Lieutenant Quetta but I would ask that they forward a recommendation to the executive branch and to the Fire Chief that he continue IOD until the board has an opportunity to decide the finality on his Cancer Ordinance. It wouldn't be binding on anything but I think it's the right thing to do. The ordinance was passed on May 9th and here it is almost nine months later and there seems to be no progress, no forward progress on getting this resolved. Frank is dying as we speak and after January 1st he will take a reduction in pay between how he is currently carried and how he will be carried if the department and the executive branch decides in fact that he should be retired under the 60 year provision.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I certainly will pass that recommendation on. I know that the board has a requirement, mandatory retirement at age 60. I can't guarantee that the department will hold it in abeyance depending on the board's action. All I can say is that the action taken by the board should not harm this individual for his accidental disability in that the board won't act on it because he's already at the age of mandatory retirement. So, I don't think that this board should take that posture for this individual who's already has his application pending. That's a separate determination from the administration side and I will certainly convey that to the Chief and the administration that it is a unique situation. It's a retirement issue and I can't guarantee that that's going to happen on the city side. I can just make a recommendation that he not be harmed in anyway with his application.

PAUL DOUGHTY: Will all due respect to you, as much good faith as you're showing, the advice that you give falls on deaf ears, as it does here sometimes, particularly in this case. So, I think it would be proper if the board simply made a recommendation that would not be binding.

CHAIRMAN D'AMICO: What's the use of making the recommendation for if it's not going to be binding?

PAUL DOUGHTY: Because I think if the Chief has some room to say the Retirement Board asked me to do this then I'll do this.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Well, I can state on the record that I will concur with the Chief, as well as the administration and outline their concern. I can't guarantee the process they will take relative to the mandatory retirement and I need to look at that more just to make sure that there is wiggle room. I mean I may advise the Chief that no, there is no mobility for the full benefit conveyance that the board has strictly construed. I think that we've taken the position from January following their 60th and I haven't looked at it in a while. So, I would need time to review that before I made a recommendation to the Chief.

PAUL DOUGHTY: But that presumes that we're going to resolve the issues around the rules and regulations and the application for the accidental cancer disability and I'm not confident that's going to happen today or the next meeting or anytime soon.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Well, I've made a request to the board that if in fact next month or at a later date the application be granted we would do an adjustment that any money owed to this individual are reflected in his future payments and we've done that in other cases in unique situations, provided that the board is agreeable to doing that.

PAUL DOUGHTY: Just understand me. It's not so much getting the retro money going backward. It's the fact that on January 1st he will have a different pay rate.

VICE-CHAIRMAN POTENZA: I need a motion to continue one month.

MR. NAPOLITANO: So moved.

MR. O'MARA: Second.

On motion of Mr. Napolitano, Seconded by Mr. O'Mara, it is voted to continue the application for Ordinary Disability of Francis Quetta.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed.

3. INVOICES FOR PAYMENT:

a. Medical Consultant – None

4. LOANS APPROVED:

Total number of loans since last Board Meeting: 149

Total amount of loans since last Board Meeting: \$813,500.00

On motion of Mr. Napolitano, seconded by Mr. Miller, it is voted to approve the foregoing matter.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed.

5. PURCHASE OF SERVICE:

a. Rebecca Johnson – Parks Department – Continuous Temp Time – 2 years, 5 months & 25 days - \$4,351.29

b. Ralph L. Taylor, Jr. – School Department – Prior Service – 3 years, 9 months & 5 days - \$25,435.07

c. Clinton Watkins – Recreation – Continuous Temp Time – 4 years & 12 days - \$34,308.00

On motion of Mr. Napolitano, seconded by Mr. Miller, is it voted to receive the foregoing matters.

CHAIRMAN D'AMICO: All in favor.

COMMITTEE: Ayes.

CHAIRMAN D'AMICO: Opposed? The "Ayes" have it.

6. SERVICE RETIREMENTS:

**Maximum – Joseph Baris, Jr. – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Joseph Baris, Jr., employed as a Captain by the Fire Department. Mr. Baris is 51 years of age with a service record of twenty-seven years, nine months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Joseph Baris, Jr. – Captain/Fire Department

Allowance: \$3,687.28 a month, effective June 30, 2008.

**Maximum – Michael L. Clark – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Michael L. Clark, employed as a Lieutenant by the Fire Department. Mr. Clark is 47 years of age with a service record of twenty years, nine months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Michael L. Clark – Lieutenant/Fire Department

Allowance: \$2,667.79 a month, effective June 30, 2008.

**Maximum – James B. Creighton – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of James B. Creighton, employed as a Captain by the Fire Department. Mr. Creighton is 54

years of age with a service record of twenty-four years, eleven months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

James B. Creighton – Captain/Fire Department

Allowance: \$3,755.19 a month, effective June 30, 2008.

**Maximum – Robert J. Dunne – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Robert J. Dunne, employed as a Lieutenant by the Fire Department. Mr. Dunne is 54 years of age with a service record of twenty-seven years, nine months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Robert J. Dunne – Lieutenant/Fire Department

Allowance: \$3,235.49 a month, effective June 30, 2008.

**Maximum – Esther E. Fulco – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Esther E. Fulco, employed as a Bus Monitor by the School Department. Ms. Fulco is 62 years of age with a service record of five years, five months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Esther E. Fulco – Bus Monitor/School Department

Allowance: \$126.27 a month, effective August 1, 2008.

**Maximum – Virginia Hartman – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Virginia Hartman, employed as a Secretary to the Director by the Department of Public Works. Ms. Hartman is 55 years of age with a service record of nine years, nine months, twenty-one days, purchasing two years, nine months, working twelve years, seven months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Virginia Hartman – Secretary to the Director/Department of Public Works
Allowance: \$346.48 a month, effective December 1, 2007.

**Maximum – Michael G. Jennings – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Michael G. Jennings, employed as a Lieutenant by the Fire Department. Mr. Jennings is 59 years of age with a service record of twenty-nine years, two months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Michael G. Jennings – Lieutenant/Fire Department
Allowance: \$3,375.44 a month, effective June 30 2008.

**Maximum – Donna Middleton – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Donna Middleton, employed as a Teacher Aide by the School Department. Ms.

Middleton is 55 years of age with a service record of ten years, five months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Donna Middleton – Teacher Aide/School Department

Allowance: \$361.08 a month, effective May 14, 2008.

Maximum – Mark Pare – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Mark Pare, employed as an Assistant Fire Chief by the Fire Department. Mr. Pare is 53 years of age with a service record of twenty-nine years, one month, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Mark Pare – Assistant Chief/Fire Department

Allowance: \$5,655.57 a month, effective May 4, 2008.

Maximum – Eric Schauble – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Eric Schauble, employed as a Firefighter by the Fire Department. Mr. Schauble is 35 years of age with a service record of sixteen years, six days, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Eric Schauble – Firefighter/Fire Department

Allowance: \$3,122.23 a month, effective March 27, 2008.

Maximum – Brian T. McNally – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Brian T. McNally, employed as a Police Person by the Police Department. Mr. McNally is 41 years of age with a service record of eleven years, one month, one day, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Brian T. McNally – Police Person/Police Department

Allowance: \$3,058.09 a month, effective June 26, 2008.

Option I – Kathleen Doyle – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Kathleen Doyle, employed as a Teacher Aide by the School Department. Ms. Doyle is 52 years of age with a service record of nineteen years, two months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Kathleen Doyle – Teacher Aide/School Department

Allowance: \$442.40 a month, effective July 31, 2008.

Option II – Barbara Calitri – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Barbara Calitri, employed as a Teacher Aide by the School Department. Ms. Calitri is 60 years of

age with a service record of seventeen years, three months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Barbara Calitri – Teacher Aide/School Department

Allowance: \$653.01 a month, effective June 30, 2008.

**Option II – Catherine T. Lynch – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Catherine T. Lynch, employed as a Crossing Guard by the Department of Public Safety. Ms. Lynch is 62 years of age with a service record of sixteen years, five months, purchasing two years, three days, working eighteen years, five months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Catherine T. Lynch – Crossing Guard/Department of Public Safety

Allowance: \$716.30 a month, effective June 30, 2008.

**Option II – Arthur Mendonca – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Arthur Mendonca, employed as Technical Services by the School Department. Mr. Mendonca is 58 years of age with a service record of thirty-five years, five months, twenty-two days purchasing two years, nine months, three days, working thirty-eight years, three months, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Arthur Mendonca – Technical Services/School Department

Allowance: \$3,471.46 a month, effective June 30, 2008.

Option II – Elizabeth Richards – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Elizabeth Richards, employed as a Teacher Aide by the School Department. Ms. Richards is 60 years of age with a service record of thirteen years, fourteen days, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Elizabeth Richards – Teacher Aide/School Department

Allowance: \$394.90 a month, effective May 23, 2008.

Option II – Anthony A. Ventriglia – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Anthony A. Ventriglia, employed as a Apprentice Laborer by the Department of Public Safety. Mr. Ventriglia is 57 years of age with a service record of three years, thirteen days, working for the city the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Anthony A. Ventriglia – Apprentice Laborer/Department of Public Safety

Allowance: \$114.13 a month, effective June 13, 2008.

Option III – Allen Litchman – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Allen Litchman, employed as a Special Education Teacher Aide by the School Department. Mr. Litchman is 65 years of age with a service record of forty-two years, one month, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Allen Litchman – Special Education Teacher Aide/School Department

Allowance: \$1,802.12 a month, effective June 19, 2008.

**Option III – John Mullaney – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of John Mullaney, employed as an Electrical Inspector II by the Department of Inspections and Standards. Mr. Mullaney is 60 years of age with a service record of nineteen years, one month, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

John Mullaney – Electrical Inspector II/Department of Inspections and Standards

Allowance: \$1,103.58 a month, effective January 24, 2008.

**Option III – Natalie A. Salvatore – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Natalie A. Salvatore, employed as a Teacher Aide by the School Department. Mr. Salvatore is 70 years of age with a service record of thirteen years, ten months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Natalie A. Salvatore – Teacher Aide/School Department

Allowance: \$654.08 a month, effective June 30, 2008.

**Option IV – Ann Colavecchio – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Ann Colavecchio, employed as Claims Examiner by the Department of Human Resources. Ms. Colavecchio is 64 years of age with a service record of twenty-six years, ten months, purchasing two years, four days, working twenty-eight years, ten months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Ann Colavecchio – Claims Examiner/Department of Human Resources

Allowance: \$2,493.98 a month, effective June 30, 2008.

**Option IV – Richard Aitchison – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Richard Aitchison, employed as License Board Administrator by the Board of Licenses. Mr. Aitchison is 55 years of age with a service record of twenty years, eight months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Richard Aitchison – License Board Administrator/Board of Licenses

Allowance: \$2,248.03 a month, effective June 30, 2008.

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Option IV – Elsie Diggins – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Elsie Diggins, employed as a Customer Service Clerk by the Department of Public Safety. Ms. Diggins is 60 years of age with a service record of twenty years, five months, eighteen days, purchasing five months, twenty-eight days, working twenty-one years, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Elsie Diggins – Customer Service Clerk/Department of Public Safety

Allowance: \$1,237.33 a month, effective June 30, 2008.

Option IV – Everett J. Downing – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Everett J. Downing, employed as Foreman by the Department of Public Works. Mr. Downing is 61 years of age with a service record of thirty-two years, three months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Everett J. Downing – Foreman/Department of Public Works

Allowance: \$2,260.81 a month, effective June 30, 2008.

Option IV – Julia D. Goins – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Julia D Goins, employed as a Customer Service Clerk by the Department of Public Safety. Ms.

Goins is 62 years of age with a service record of twenty years, five months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Julia D. Goins – Customer Service Clerk/Department of Public Safety

Allowance: \$1,151.92 a month, effective June 30, 2008.

Option IV – Marilyn Federico-Gomes – APPLICATION FOR SERVICE RETIREMENT

Mr. Cunha presents the application for service retirement of Marilyn Federico-Gomes, employed as a Clerk by the School Department. Ms. Federico-Gomes is 55 years of age with a service record of eighteen years, nine months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Marilyn Federico-Gomes – Clerk/School Department

Allowance: \$1,214.66 a month, effective June 2, 2008.

Option IV – William J. Moise, Jr. – APPLICATION FOR SERVICE RETIREMENT

Mr. Cunha presents the application for service retirement of William J. Moise, Jr., employed as Captain Dispatcher by the Fire Department. Mr. Moise is 45 years of age with a service record of nineteen years, seven months, twenty-eight day, purchasing four years, working twenty-three years, eight months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

William J. Moise, Jr. – Captain Dispatcher/Fire Department

Allowance: \$2,513.88 a month, effective June 1, 2008.

**Option IV – Judy Ann Monahan – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Judy Ann Monahan, employed as a Custodian by the School Department. Ms. Monahan is 55 years of age with a service record of seventeen years, eleven months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Judy Ann Monahan – Custodian/School Department

Allowance: \$618.36 a month, effective March 31, 2008.

**Option IV – Anita Mozzetta – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Anita Mozzetta, employed as Confidential Assistant to Chief by the Water Supply Board. Ms. Mozzetta is 69 year of age with a service record of nineteen years, seven months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Anita Mozzetta – Confidential Assistant to Chief/Water Supply Board

Allowance: \$1,960.43 a month, effective January 6, 2008.

**Option IV – Anne L. Paolilli – APPLICATION FOR SERVICE
RETIREMENT**

Mr. Cunha presents the application for service retirement of Anne L. Paolilli, employed as an Investigative Clerk by the Department of Public Safety.

Ms. Paolilli is 48 year of age with a service record of twenty years, eight months, twenty-one days, purchasing four years, seven months, eight days, working twenty-five years, four months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Anne L. Paolilli – Investigative Clerk/Department of Public Safety

Allowance: \$1,747.14 a month, effective June 30, 2008.

Option IV – Patricia Rossi – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Patricia Rossi, employed as an Office Manger/Housing by the Department of Planning and Development. Ms. Rossi is 61 year of age with a service record of thirty-two years, ten months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Patricia Rossi – Office Manager/Housing/Department of Planning & Development

Allowance: \$2,200.46 a month, effective January 2, 2008.

Option IV –Marie J. Tamburini – APPLICATION FOR SERVICE

RETIREMENT

Mr. Cunha presents the application for service retirement of Marie J. Tamburini, employed as Senior Retirement Division Clerk by the Retirement Office. Ms. Tamburini is 62 years of age with a service record of twenty years, five months, working for the City the same length of time.

This application is in proper form with allowance as recommended by the Actuary as follows:

Marie J. Tamburini – Senior Retirement Division Clerk/Retirement Board

Allowance: \$1,598.32 a month, effective June 30, 2008.

7. NEW BUSINESS:

VICE-CHAIRMAN POTENZA: Mr. Chairman, if I may. Would it be acceptable to the board if we flip flopped to item d., regarding Rules Committee, which would be a cancer issue to the forefront here. Can we take it out of order please?

On motion of Vice-Chairman Potenza, seconded by Mr. O'Mara, it is voted to take line item d. and present that in front of the board at this time out of order.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed.

d. Regarding Rules Committee

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: We met briefly, I wouldn't say briefly, we met intermediately a couple of weeks ago and there were some recommendations by this board to modify the then existing disability questionnaire to add items 7, 8 and 9 relative to tobacco abuse and illegal drugs. I've added those at the request of the board. Additionally, on the Presumptive Cancer overview I made some modifications at the request of the board to add those similar type of verbiage that are in the ordinance in different spots to various sections of the overview which I've done. That was the recommendation and I've provided that in the overview as well as in the questionnaire.

CHAIRMAN D'AMICO: Does anyone want to discuss this?

MR. O'MARA: I make a motion we accept the draft that was provided to us.

CHAIRMAN D'AMICO: Do you want to make that a motion?

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MR. O'MARA: Yes.

CHAIRMAN D'AMICO: Do I have a second?

MR. ZACKS: Second.

MRS. DOWBEN: No discussion?

MR. NAPOLITANO: Yes.

MR. ZACKS: No, we have a motion to accept?

MS. STETSON: There is a motion on the floor.

MR. DILLION: Now it's appropriate to have discussion.

MRS. DOWBEN: Under the draft Presumptive Cancer Benefit, subsection
3.

VICE-CHAIRMAN POTENZA: Do you have a page number?

MRS. DOWBEN: The first page.

MS. LAPIDUS: The second bullet point, item number three.

MRS. DOWBEN: Again, we put in alcohol but we left out tobacco and I
don't quite know why. I mean tobacco should be added, known to be caused by
the use of alcohol or tobacco.

VICE-CHAIRMAN POTENZA: That's not what the ordinance states.

MR. NAPOLITANO: If I might, Mr. Chairman, I thought we had to add all
three.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I did.

MR. NAPOLITANO: But it doesn't say that.

MR. O'MARA: I think if you go to page two, it's addressed, Stephen. If
you go to page two, the second one, number one it's addressed in there. It's says
all three.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Just so you
know the draft that I had sent over, maybe I sent the wrong one and I apologize.
The one that I sent over does have it and I can make a copy of it. In bullet point
three, which I will read, "Whether the type of cancer for which benefits or

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compensation is sought is known to be caused by the use of alcohol, tobacco, and/or drugs, if so then if the use of alcohol, tobacco, and/or drugs by the firefighter were contributing factors in the manifestation of the malignancy". We can make a quick copy of you want. Maybe I sent it before I saved it and then when I saved it that was the copy that I sent to Mr. Cunha. I take full responsibility. I had made those changes consistent through the document as this board had requested. So I apologize and on that document I had taken off draft. So, if you have draft that is the older version and I apologize.

CHAIRMAN D'AMICO: Any other discussion on this?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I can tell you from the November 5th meeting I also did that on page two under the third bullet down number one. You wanted me to include the abuse of alcohol and I did that.

MRS. DOWBEN: Alcohol is not included.

MS. LAPIDUS: Not on ours.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: On the third page under number three, you had asked that I add illegal drugs and that over verbiage, which I did in the draft that I thought I sent out to Octavio. Then I cleaned up in Section 4, to move the language that was all consistent under the same type of provision that wouldn't apply if someone was doing firefighting in the military. Actually it's the acceptance to the general rule and that was consistent from our meeting in the first week of November that those are the changes that you had requested as well as the changes in the questionnaire. Adding those additional requirements. I don't know if they're requirements but additional bullets or questions for the doctors to answer. When the applicants file, they're providing an affidavit and that affidavit is also reflected depending on if in fact they've use tobacco or abused alcohol or whatever. That's reflected in their affidavit.

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MS. LAPIDUS: Well, it doesn't say that in the affidavit. It says I will not use or have I ever used tobacco, illegal drugs or controlled substances but not alcohol.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't think the ordinance requires that.

MS. LAPIDUS: Well, what good is it then?

VICE-CHAIRMAN POTENZA: It's the interpretation of use of alcohol.

MR. NAPOLITANO: So I can follow the conversation what document are we now looking at?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: The affidavit that was not changed.

MR. NAPOLITANO: If we keep on jumping back and forth we're not going to get anywhere. I have some questions on the affidavit but does anyone have any other questions regarding the Presumptive Cancer Benefit overview draft before we leave it? Not that we can't come back to it. The Counsel has addressed that the copy we have is not the copy that we're suppose to have.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I believe the Clerk has someone in her office copying it.

MR. NAPOLITANO: Regarding page two, again on the overview as I refer to it, draft Presumptive Cancer Benefits, the question is precipitated as to when the affidavit has to be filed with regards to existing employees, firefighters. Down at the bottom of the page, "Presumption shall not apply in the following instances". Number one, "If a firefighter uses or has ever used tobacco, illegal drugs, or controlled substances in a manner other than prescribed by a medical professional". It goes on to say, "This subsection shall not apply to firefighters hired prior to May 9, 2008 provided that said firefighter has not used tobacco, illegal drugs, or controlled substances in a manner other than prescribed by a

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medical professional subsequent to May 9, 2008". I think I know what it's trying to say.

MRS. DOWBEN: But it's not well said.

MR. NAPOLITANO: I think we need some clarification.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: The ordinance speaks to if I was employed prior to May 9th and I have done any of those things they wouldn't apply. They wouldn't have any impact. The presumption would still apply provided on May 9th going forward I don't partake in any of those activities. That's what it should say.

MR. NAPOLITANO: That's my understanding of what the meaning is and I've got a problem with that because if in fact, and I'm not saying this is the case, but we have to provide for the extremes here or be cognizant of them. If someone abused cigarettes from the day he was hired, which was back in 1975 to present day, and then from May 5, 2008 forward quits and he contracts lung cancer he gets a free ride.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: That's the way the ordinance is drafted.

MR. NAPOLITANO: And I don't think that's fair. Now, if that firefighter was fighting a fire and he contacted carcinogens and it was the result of a fire I have no problem with that but if in fact the diagnosis is lung cancer due to excessive smoking then I don't think that's fair.

MR. O'MARA: Well, Stephen that's answered in the questionnaire that the doctors get.

MR. NAPOLITANO: Again, I'm not sure if we can address that there or here.

VICE-CHAIRMAN POTENZA: Mr. Napolitano, my answer to that would be is the ordinance itself and what the ordinance states is exactly what is stated by Council. There is nothing else stated in the ordinance pertaining to if anyone

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smoked. I could have smoked a cigar a day up until May 8th and if I quit and I signed my affidavit and I followed my health and wellness program I'm still eligible for this so-called benefit. I don't see anything that you're alluding to in the ordinance itself. I do know what it is saying. I recognize your feelings but I do not see that in the ordinance.

MR. NAPOLITANO: It's not fair to the rest of the firefighters who participate in the wellness and have given up smoking and so forth and so on. It's not fair to the other members of the Retirement System.

VICE-CHAIRMAN POTENZA: I can understand what your position would be in that matter, but I just do not see that it the ordinance itself and the ordinance is what we go by, as we do when we decide when there is three doctors that are unanimous. When we have to have a particular incident to base our injuries on we follow the ordinance as it is and that's what it states and that apparently is the interpretation that our Council gave us.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't think anyone factored in that scenario. I don't know, but my reading of the ordinance is if you can partake in an activity you essentially get a free pass from the board.

MR. NAPOLITANO: I agree with you. That's my interpretation and I think it's totally unfair.

MRS. DOWBEN: I wanted to ask another question because as we do in the case of accidental disability, we still require the doctor to review it to see that the person is still disabled every year thereafter. I'm not clear if this applies or not under the cancer ordinance because there are indeed a number of cancers and indeed one is cured if you are after five years or longer, which includes everything from pre-cancerous lesions of the skin, prostate cancer and other things. All these people continue working including Senator McCain who could apparently run for President with these lesions but we would grant permanent accidental disability to

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anybody who has anything of any kind of cancer whatsoever and I think that is a problem.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Well, to answer it quickly, yes, they would still be subject to the re-examination or the re-certification. I didn't leave anything in there that exempts any individual from the re-certification process. I don't think that was the intent of the draft.

MRS. DOWBEN: Also a second question, and that is when a person first applies to be a fireman, the applicant who has not yet served as a fireman and is applying to be a fireman and we require a physical examination, I do not understand why we can not perform the very simple and not expensive tests. I don't see how this would conflict even with the union regarding the fact whether the person has ever smoked and there as test for that as well as well as test for drugs. They're both available. They're not expensive. These are screenings prior to the person even being exposed to anything.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Are you talking applicants?

MRS. DOWBEN: I'm taking applicants.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: They're not members of the union. I can forward that request to Chief Farrell to make Chief Farrell aware and I'm sure he is. In the application process that may be something that they may want to explore. As far as the benefit, I don't know what that is and I don't know if there is a reason why or why not somebody would do that and I think that's obviously beyond our scope. I'm not part of the application process.

PAUL DOUGHTY: Point of clarification. My understanding now and the rules that I was tested under is that they do do a drug screening for applicants.

MRS. DOWBEN: You can also do a tobacco screening.

PAUL DOUGHTY: Maybe you can, maybe you can't.

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MRS. DOWBEN: Well, there is one. Every life insurance company requires it before they will take you on.

PAUL DOUGHTY: You and I had the same discussion when you told me there was a test for post traumatic stress syndrome and the doctors said absolutely not. There is no way to detect that.

MRS. DOWBEN: Well, it depends, of course, which doctor but I will tell you for smoking there definitely is a test.

PAUL DOUGHTY: I have no objection to it but I have no seat at the table either.

MRS. DOWBEN: Then the next part of this and this is only a question, but since they're going to do annual health and wellness screenings once a year then I think part of the examination should be required of applicants is whether there is a family history of cancer, which would be part of any screening done by any physician in the family, and the second part would be given a certain age whether it's in the family or not to inquire whether they've had a colonoscopy. Whether they do it or not is their business but this should be part of the physical examination report. I think this is important and again this has nothing to do with not granting the benefit. It only has to do with the appropriateness of the examination given that we've now got this new ordinance.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't know what type of questions they are maybe Paul knows. I'm not sure what they do on the annual exam.

PAUL DOUGHTY: They do do a family history. They're not allowed to do a drug test under state law and we have no objection to a colonoscopy. In fact I would advocate for my members to have that ability but what happens is the department runs on a low bid and the more procedures you add the more it costs and they're not inclined to do this. In fact the physical exam has been state law since 1987 and we fought it. The first year we got it was in 2006.

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MRS. DOWBEN: Well, be that as it may, now that we do have it I think that it is appropriate.

PAUL DOUGHTY: I would love it if you made the recommendation that a colonoscopy is required.

MS. LAPIDUS: Hold on a second here. I would like to say that some of these questions are not this board's function. They are the function of the administration, or somebody, either the city and/or the Fire or the city and/or the Police.

MRS. DOWBEN: I have to raise the question because how will we ever get to the administrative level.

MS. LAPIDUS: So, we should make a recommendation of some kind perhaps if that is within our purview to the administrations of the Fire, Police or city that such a thing be considered because in fact it would probably save health costs down the line when some of us are no longer going to be here. I think preventive medicine is absolutely important.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I think we're getting away from the scope of things. I agree with you. I mean as far as the recommendation I'm not really sure that would be warranted. I certainly will inquire on my own with what is done and if that has anything to do with preventive care relative to firefighters. I mean as far as the Police Department, strictly the Presumption Ordinance only applies to firefighters.

MS. LAPIDUS: I understand that but this is not this board's function but it's a suggestion that shouldn't be blown off into the sky because the city cries all the time that there is not enough money to do this or that. So, if you can save on health costs they save money. So, somebody needs to tell somebody somewhere.

MRS. DOWBEN: That's the reason I'm raising this now because I know no other time in which you will get to the attention of the administration at the higher levels where they can act.

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MR. DILLON: You've made your point. It's on the record here and if we wanted to do a separate resolution sometime I guess we could.

MR. O'MARA: We have to go through the City Council.

MR. DILLON: I was just going to say once again I agree with what Ms. Lapidus is saying. I think we're drifting off and we're trying to change an ordinance that's already been passed. We can't change an ordinance. Only the City Council can change an ordinance. I think we're getting too deep into this and we're trying to switch an ordinance whether you like it or don't like it but it's done and it's been approved. We're getting into recommendations but we still have to abide by the laws of the Home Rule Charter and the rules of the Retirement Board. Our job is not to require people to go get tested for this or that. Our job is if they apply for a disability, they go through the three doctors it, goes to the Medical Sub-Committee and if the doctor recommends disability we vote on it. We're trying to switch all the laws that we don't like and I think it's a waste of time. There are good recommendations but that's what the City Council is for. Make the recommendations to them or write a letter to the Chief. I think we're drifting here. That's why it's been dragging on for so long.

MR. NAPOLITANO: Mr. Chairman, one more question on the paragraph I cited previously.

MR. O'MARA: What page, Mr. Napolitano?

MR. NAPOLITANO: Page two. "The presumption shall not apply in the following instances". Again, it's the first paragraph. In the second sentence of that first paragraph. "This subsection shall not apply to firefighters hired prior to May 9, 2008 provided that said firefighter has not used tobacco, illegal drugs, or controlled substances". The May 9, 2008, if we were to delete that and dovetail this and provide it by the present employees affidavit. In other words, delete "subsequent to May 9, 2008" and just put prescribed by a medical professional as outlined in the employee's affidavit.

VICE-CHAIRMAN POTENZA: Mr. Napolitano – or Mr. Chiavarini, I think we would be misrepresenting the ordinance if we did not include subsequent to May 9th. I think it would be misleading and totally indifferent to the ordinance itself.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: You have two different batches of folks providing affidavits. The pre and the post. So I think that May 9th is significant because different standards apply.

MR. NAPOLITANO: That's my point. I understand we have two different affidavits. One for existing employees and one for new employees but I'm trying to make sure that this is consistent with the two affidavits. That's all I'm trying to do here. Do you follow what I'm saying?

CHAIRMAN D'AMICO: Are you going to answer him he asked you a question?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I didn't hear the question.

MR. NAPOLITANO: I understand we have two different affidavits and I agree with that. One for existing employees and one for new employees. New employees I have no problem with but do we not obviate the existing employees affidavit by putting that subsequent to May 9, 2008? In the affidavit, and we can get to that, if indicates that while he was in high school he smoked marijuana that should not knock him out of the benefits of this ordinance.

CHAIRMAN D'AMICO: Do you think someone is going to admit that?

MR. NAPOLITANO: These are going to be confidential. I would think they're going to be confidential.

MR. DILLON: I don't think they have to sign that. When it comes times for them to retire, if they elect to try to invoke this presumption then they're going

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at that time with I have not smoked or engaged in these activities since May 9, 2008, from that day forward.

MR. O'MARA: That's the way it's suppose to be.

MR. DILLON: If they sign it now then what about tomorrow?

MR. NAPOLITANO: If they sign it now, which is what they should do, existing employees, my understanding of this ordinance is if they smoke and indulge in alcohol and drug abuse after May 9th they're not eligible.

MR. DILLON: If they can't sign that affidavit there is no presumption.

MR. NAPOLITANO: If they sign the affidavit a week before they go to the doctor and say I have not smoked in the last week and they are diagnosed with lung cancer they're golden.

MRS. DOWBEN: No, they're not,

MR. NAPOLITANO: Yes, they are.

MR. DILLON: They wouldn't have signed this affidavit. Maybe I misunderstand it but unless they got this affidavit saying I haven't since May 9, 2008 then they get to the doctor but their doctor is going to be instructed that the presumption doesn't apply to this person, right?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: The way I perceive it is I apply prior to May 9th. I come in and I apply for accidental disability. I provide the documentation that is required. That is an affidavit that says I did not partake in any of those activities. Now, that would be forwarded if that's the request of the board to the doctor, so the doctor sees on such and such a date they did not partake in any of those activities. If they can't provide the affidavit the presumption would not apply to them. They would be stuck like anyone else to prove that the particular cancer was caused by an event and it would have to be under the regular accidental disability provision and a doctor would be sent the other questionnaire that says they need to show the date and the specific time of the incident.

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MR. DILLON: That sounds fair. I mean your right about the person that you're saying that smoked but they stopped on May 8th.

MR. NAPOLITANO: That's exactly what's going to happen.

VICE-CHAIRMAN POTENZA: Mr. Chairman, can we move on from this Presumptive Cancer Benefit handout and move onto the next item. We're beating a dead horse. We're trying to make something out of an ordinance that is law that we have to abide by, we're making something else out of it. Now were by this and we're onto the next one.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Would you like to go to the questionnaire next?

MS. LAPIDUS: We were on the affidavit number four, which does include alcohol.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Prior to May 9th or post May 9th.

MS. LAPIDUS: After. The number four does not include alcohol once again and you had a comment on that saying it did not say so in the ordinance.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't believe that it did say that.

MS. LAPIDUS: Neither one actually says alcohol.

VICE-CHAIRMAN POTENZA: Which one?

MS. LAPIDUS: I'm on employees hired after May 9, 2008. Number four, I do not use nor have I never, that should be never it should be ever used tobacco, illegal drugs, or controlled substances. There is no alcohol in there either. Council said that there was something about it not appearing in the ordinance but my question is if it's in everything else why isn't it in here to.

MR. NAPOLITANO: I thought we were going to add that to all of them.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't believe I modified the affidavit. I don't believe there was any additional language. I

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understand what you're saying but the ordinance says that the presumption would not apply because the firefighter uses or has ever used tobacco, illegal drugs or controlled substances. I don't see anywhere in here that talks about alcohol other than the doctor. There is a specific section that talks about that.

MS. LAPIDUS: But you know as an attorney what you leave out it what trips you up.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: But I also know that we're creating a different standard. You're asking me to define abuse of alcohol and I don't know what that means. Is that one drink, five drinks. I mean that's a very vague term.

MR. NAPOLITANO: It defines it in the ordinance in Section one. The ordinance on page one, subsection 1, definition a., Alcohol means an alcoholic beverage, including but not limited to beer, wine, liqueurs, spirits, and other distilled and fermented beverages. So, this is the definition of the word alcohol so I would assume the ordinance refers to alcohol as well as controlled substances.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I don't think the intent and I don't see anywhere in the ordinance that says you can't have a drink. I do see where it says tobacco, illegal drugs or controlled substances. I do not see anything that says that the individual cannot have a beer or a glass of wine. So, they're going to sign an affidavit that says I have not used tobacco, illegal drugs, controlled substances or alcohol in any manner. That's not required under the ordinance. So I think you're adding something that is not there and in the doctors questionnaire you said which is specific, the doctor shall certify that the cancer is not caused by the abuse of alcohol and that's clearly written. So, I think there is a distinction between the consumption of alcohol or the abuse of alcohol.

MR. NAPOLITANO: Then use the word abuse.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: That is a very vague term.

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MR. NAPOLITANO: Well, this ordinance is vague. With all do respect, if the definition of alcohol is in the ordinance obviously you can by implication assume that all the substances that are referred to in here drugs, alcohol, tobacco, it's all assumed or presumed abuse. I would respectfully submit that.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I disagree.

MR. NAPOLITANO: So, you can abuse alcohol and not drugs and tobacco and still benefit yourself from this ordinance. I don't think so.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: There is a specific line that says the doctor shall certify that the cancer is not caused by the use of alcohol. Now, I don't know how you want to incorporate that in the affidavit.

MR. NAPOLITANO: I go back to the point I raised with the Chief in my conversation. I mean the fact that you have consumed alcohol in the past, I don't believe obviates you from affording yourself the benefit of this ordinance.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I agree.

MR. NAPOLITANO: So, what is the problem?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Adding language that is not set forth in the ordinance in the affidavit.

MR. DILLON: You're not asking them to attest that they never used alcohol.

MR. NAPOLITANO: That's right.

MR. DILLON: You're going to leave it up to them.

MS. LAPIDUS: Excuse me. It might be that you would want to say after your correct the English. I have ever used tobacco, illegal drugs or controlled substances in a manner other than prescribed or have abused alcohol because there is a definition in there for alcohol.

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SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Not the abuse of alcohol. There is a distinction. You're asking me to use the definition of what alcohol means and add that to abuse. I don't know what abuse means and I think abuse is a very subjective term as well as a vague term and it may mean something to you.

MS. LAPIDUS: Will you change the never to ever?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Of course.

MR. NAPOLITANO: Both these affidavits are subjective. They're not independent. They are provided by the individual. The affidavit provided is not to attest an absolute truth, it's to the best of the ability of the person that's subscribing to it and it's subjective. I have not used or abused alcohol, tobacco, so forth and so on.

MR. DILLON: If your new and you've had a cigarette you can't sign this and be honest. If you do it's perjury. If you had one after May 9th and you work here now and you sign this that's perjury to.

MR. NAPOLITANO: But the point made by council is that that is a subjective interpretation of what abuse means.

MR. DILLON: Well, that's what I'm saying. I think that's the problem. I think that's why he didn't put it in because you can't get into abuse.

VICE-CHAIRMAN POTENZA: Mr. Napolitano, the thing that would concern me as line item four that you mentioned. If you put abuse or use of alcohol that's up to interpretation where this is not in the ordinance, where someone on this board could see me having a beer and they could say that I applied for this disability benefit and someone will say I say Mr. Potenza have a beer the other day, in fact he had two beers, how is he going to sign that affidavit. He perjured himself signing that affidavit. I saw him drink two beers the other night.

MR. DILLON: That's a problem.

VICE-CHAIRMAN POTENZA: Exactly. It doesn't belong there.

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SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: The doctor does certify that the cancer is not being caused by abuse of alcohol or abuse of drugs. So, those are covered in the questionnaire by the doctor.

MR. NAPOLITANO: This affidavit at some point in time may come into litigation and it will be subject to cross examination. It's an affidavit provided by the individual and the fact that he does not abuse alcohol does not necessarily exclude him from having a social drink or two or three.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: One other point. The affidavit does not preclude this board from a Q & A from the individual asking for a granting of this disability. That does not preclude any board members from asking an individual on the record if in fact they've every abused alcohol or cross examine them on their affidavit. My only concern is the use of alcohol is not the same as the use of a cigarette or an illegal drug. There is a different standard so I don't know how I clump them in to satisfy that standard. If you smoke, you are automatically out of the presumption. You can use alcohol and not be out of the presumption.

MR. NAPOLITANO: I do not read that. If you have a cigarette you're precluded.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Your right in that you could have smoked a cigarette if you're James Potenza and you were hired prior to May 9th. If he smokes post May 9th he cannot get the presumption because it doesn't apply to him.

MR. NAPOLITANO: It doesn't say that.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Section 3, notwithstanding any other law, the presumption established in Section 2 shall not apply if the firefighter uses or has ever used tobacco, illegal drugs or controlled substances in a manner other than prescribed by a medial professional, with the following exceptions and the exceptions are noted below. I mean that's how I read

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the ordinance. That May 10th you have a cigarette and you were an existing firefighter you're out and that's the way the affidavit reads.

VICE-CHAIRMAN POTENZA: Mr. Chiavarini, I do have one question on both affidavits. The first one hired after May 9th and that would be line item six. Hired before would be line item four on the affidavit, would you – please and as stated in the ordinance a firefighter other than military service, let's take hired before May 9th, line item four on the affidavit. It says since May 9th, while employed as a firefighter by the City of Providence, I have not, as a volunteer, or as a participant in recreational activities outside the Providence Fire Department, ever been exposed nor do I continue to be exposed on a regular basis to heat, smoke, radiation. Could you please as stated in the ordinance if a firefighter is in the military they are exempt. That is as stated in the ordinance.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I know I'm just trying to think how I would put that in there. If a firefighter was in Iraq, that would not apply to them. I just don't know how to word that.

MR. NAPOLITANO: Where in the ordinance is that?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: On page three of the ordinance, section 3, d(2).

VICE-CHAIRMAN POTENZA: Does that make sense, Mr. Napolitano?

MR. NAPOLITANO: Not only does it say existing, it says also. If they happen to be in the National Guard and are a new hirees, it includes them as well.

VICE-CHAIRMAN POTENZA: I think that's a small housekeeping matter and if it is an issue it is stated in the ordinance.

MR. NAPOLITANO: I see it. It provides for coverage for both, existing employees and new hirees. If they're members of the National Guard and some of them I'm sure are, and they go to Iraq, and they come back, and they contract cancer, which is probably most likely if they're over there in Iraq with all the carcinogens and garbage there, we insure them.

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MRS. DOWBEN: This is a badly written ordinance that's all I have to say and we're all trying our best to make it legal but it's difficult.

MR. NAPOLITANO: Whether the affidavit addresses it, Mr. Potenza, the ordinance addresses it also. So, it's one way or the other. It really doesn't make any difference at this point.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: If I did fight in Iraq, I would just put whatever my military documentation is in there.

VICE-CHAIRMAN POTENZA: Understood. I would like to us accept the affidavits on both prior to May 9th service and after May 9th service as part of the package.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: With the minor correction that Sue had noted.

VICE-CHAIRMAN POTENZA: Maybe we can move onto the disability questionnaire, Mr. Chairman.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Since our last meeting the board had asked that I include number seven, which dealt with the use of tobacco, eight, which is a follow-up to seven, nine, which is illegal drugs or controlled substances and ten, which refers back to that and the recommendation was to add drugs and/or controlled substances as well as the tobacco and I did that. The abuse of alcohol was previously noted in question five and six.

CHAIRMAN D'AMICO: Anymore questions? A motion has been made to accept the report. Do I have a second?

MR. O'MARA: Second.

MR. O'MARA: Do we have to do a roll call vote on that?

VICE-CHAIRMAN POTENZA: Could you please restate the motion.

MR. O'MARA: The motion was made to accept as our rules the documents provided to us by the City Solicitor including the two affidavits, the Presumptive Cancer Benefit and the questionnaire as modified.

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MR. DILLON: Aren't we saying that he's going to modify it to include the military service and to change never to ever?

VICE-CHAIRMAN POTENZA: I can accept the ordinance itself that not being included in the affidavit.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: And the correction that Sue had made.

VICE-CHAIRMAN POTENZA: One question before we vote please. As a matter of discussion, I would like us to when any member goes to his doctor that all affidavits that are signed by that member are sent to the doctor, so the doctor does understand that it is sworn by that participant that since May 9th they have not participated in any of the illegal things that we have in the ordinance.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I would also request that a copy of the ordinance be sent.

VICE-CHAIRMAN POTENZA: I would say it should be, yes.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: It's this board's pleasure.

MR. NAPOLITANO: Why would you sent them the ordinance?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: We typically don't.

VICE-CHAIRMAN POTENZA: So the doctor can understand.

MRS. DOWBEN: I think sending them the ordinance won't help because we ourselves have problems with it and I would say that considering professionals that have come up to me and expressed dismay at this ordinance, I think you might only aggravate them but it's your business if you want to give it to them.

On motion of Vice-Chairman Potenza, seconded by Mr. O'Mara, it is voted to accept the documents provided by the City Solicitor including the two affidavits, the Presumptive Cancer Benefit and the questionnaire as modified.

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CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed. The "Ayes" have it. Let's go back to item a.

a. Discussion on the Independent Accountant's Report from Braver PC

MR. MILLER: We had been discussing the independent accountant, Braver Report in Executive Session and I would like to continue that and once we've come up with a decision then we can come out of Executive Session.

MR. NAPOLITANO: Second.

On motion of Mr. Miller, seconded by Mr. Napolitano, it is voted to continue the foregoing matter.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed? The "Ayes" have it.

MR. NAPOLITANO: Don't we have to roll call to go into Executive Session?

MR. DILLON: No, we're going to continue it today.

MR. MILLER: I would also continue e., f. and g. and if we have time go back to a. and b.

MR. NAPOLITANO: Okay.

MS. PETRONIO: Hold on. Are you continuing a. or are you speaking on a.

MR. NAPOLITANO: We are going to go to the next section. We are going to skip a. and b.

MR. MILLER: I will make a recommendation that we continue e., f. and g. and if time permits go into Executive Session relative to a. and b.

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MRS. DOWBEN: I would like to request for e., f. and g. that we have financial experts on this board and that they might be present to respond to e. and f.

MR. MILLER: I can respond to e. and f.

MRS. DOWBEN: Well good.

MR. NAPOLITANO: He is the Finance Director.

MR. ZACKS: In reference to a., when will this be discussed because I have numerous questions and who is going to be prepared to answer them besides Mr. Miller. So you're going to speak for Braver?

MR. MILLER: Yes.

MR. ZACKS: Okay, and all those questions will be addressed at our next meeting.

MR. MILLER: If you have questions it might be more efficient to provide them to me earlier, and then if there is any research that needs to be done then it can be completed prior to the meeting to make it more efficient. It's up to you if you want to do that.

MS. LAPIDUS: That sounds like a good idea.

MRS. DOWBEN: That's a very good idea.

MR. NAPOLITANO: Okay, so where are we now on the agenda?

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I would say take item c. We've only done item d.

c. Closed Session: RIGL 42-46-4 and RIGL 42-46-5 (a) (2) (Specific to discussion regarding pending litigation)

ASSISTANT CITY SOLICITOR CHIAVARINI: This deals with the matter that's pending before the Supreme Court. I've had a few conferences. There is no recommendation or direction from the court until I get further direction I will come back to the board so I would ask that it be continued.

MR. DILLON: So moved.

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MR. NAPOLITANO: Second the motion.

On motion of Mr. Dillon, seconded by Mr. Napolitano, it is voted to continue the foregoing matter.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed. The "Ayes" have it.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: The next item would be e.

MS. PETRONIO: Are you taking e. for e., f. and g.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: I think their all separate, right Carla? Each item is unique in itself.

MRS. DOWBEN: Yes it is. So do we have an answer on e.?

- e. Discussion on the reduced principal of the Retirement Fund and the rate of disbursements plus anticipated increase for future retirees. How long is the Retirement Fund expected to last – Carla Dowben**
- f. Discussion on the diminished capability of the Retirement Fund influence decisions of the Retirement Board. – Carla Dowben**

MR. MILLER: The Retirement Fund is an obligation of the city and it will continue to last as long as that obligation exists. If the yields and/or the principal balance in today's market is reduced and let's say par value was 100 and it is reduced down to 50 and we loose \$50,000.00 in that in investment, what happens is the contribution that the city makes is increased to capture that difference. So again, as long as the obligation, the liability is part of the cities obligation the city will continue to fund that liability.

MRS. DOWBEN: Yes, but if we've gone through a hundred million from say whatever it was five hundred million, I don't understand how the city has the finances to fulfill that obligation.

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MR. MILLER: Well, you also have to remember that you're looking at an investment point in time. If you look historically, okay, these balances and gains come back within three to five years. Whoever you talk to they have different ideas but we're looking at I think probably about a three to five year window where we're not making the 18%, 19% that we use to make. We're in a declining market and we realize that, but I don't think it's time to say that the entire value of that asset portfolio is going to be diminished to zero. That's not going to happen.

MRS. DOWBEN: May I follow this up with one question then like under f. Every month I notice that we loan out anywhere from \$800,000.00 to a half million every single time and how this might affect the ability to fund regular retirements let alone any other disability or otherwise has me a little baffled to. I mean I'm concerned about all the employees of the city.

MR. MILLER: Right now the city is funding not only current obligations but we're also funding future obligations so that the liability will be fully funded within I think it's eighteen years now.

MS. LAPIDUS: Where are you getting the money?

MR. MILLER: From the General Fund.

MR. ZACKS: Keep in mind there were many years that payments weren't made. This administration has made an attempt to make those payments as big or small as they may be, and to deflect a little bit some of the issues that you were addressing. The employees contribution, it's a contractual issue. The city can come back to the employees and ask them to contribute more. That's a contractual thing that would have to be between the union and the administration but it is an option which you have to keep in mind. These are all avenues that can be taken at a later date. He's just saying you're looking at what's going on here when we're in a crisis mode but Mr. Miller is thinking long term.

MRS. DOWBEN: Well I'm glad and I'm relieved to hear that we don't really have to worry for the next three to five years if indeed that's when the crisis

will be over. I mean that's what the question was about and I was concerned and I think it was a fair concern.

MR. MILLER: It's a definite issue and it should be a concern. The pension board or the investment board has to take a long term perspective otherwise we would all be jumping out the window today.

MR. DILLON: When the actuaries do it, don't they use about five years?

MRS. DOWBEN: Well, they use a five year rounding period.

MR. MILLER: It's a three year what they call a flattening, if you will, or smoothing effect, they don't take the one year. So, next year in fiscal year ten when we are doing our budget our contribution is going to go from \$60 million up to \$120 million because the market is going from \$58 million up to \$60 million we think and it will be absorbed in our tax levy.

MR. DILLON: Won't it be soon that they come with the report?

MR. MILLER: We have the Buck actuarial. We just received it two days ago.

MR. DILLON: They usually come in right and do a whole presentation and that would be the time to talk about that.

MRS. DOWBEN: That's all I really wanted to know but I think since we're on the Retirement Board it's a good question.

ANNA M. STETSON: Do you want to re-submit that to the Retirement Board so that they can see what the funds look like and they will have a better idea?

MR. MILLER: Yeah. Mr. Chairman, let me make the recommendation that we present the investment portfolio next month as part of the agenda.

CHAIRMAN D'AMICO: You made that a motion right?

MR. MILLER: Yes.

CHAIRMAN D'AMICO: Do I have a second?

MR. NAPOLITANO: Second the motion.

On motion of Mr. Miller, seconded by Mr. Napolitano, it is voted to present the investment portfolio next month as part of the agenda.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed. The "Ayes" have it.

ANNA M. STETSON: Are we continuing item number e?

MRS. DOWBEN: E. and f.

ANNA M. STETSON: Okay, motion to continue?

On motion of Vice-Chairman Potenza, seconded by Ms. Lapidus, it is voted to continue the foregoing matters.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed. The "Ayes" have it.

ANNA M. STETSON: Okay, item g.

g. Discussion on excusing the applicant after he or she has given the opportunity to present their evidence and arguments to the Disability Sub-Committee and later with full Board to permit the Board to freer discussion of their case – Carla Dowben

MRS. DOWBEN: That's mine and I raise this because it is more usual then not to make such decisions in the absence of the applicants wherever we are. Not just the Retirement Board. So we don't have to sit there and discuss this without being able to discuss it among ourselves afterwards when they've had full opportunity to put their position forward with their relatives and attorney.

ANNA M. STETSON: If I may, the meetings are open to the public unless you choose to go into Executive Session. Other than that, anyone can stay in the meetings.

MR. NAPOLITANO: She is talking about the discussion of the members of the sub-committee doing it without the person and/or their council present and I

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think there is a problem there for us to discuss anything regarding that individual. That individual has the right to be here.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: If I may, Steve, I think if you afford them the ability and I've said this before, you can afford them the ability to come into the room to present their case. If in Executive Session you want to have frank discussion, there is no requirement that they have to be in the room. As a matter of fact, Octavio will tell you the state doesn't even allow the individual to be part of the process. The committee historically has allowed the individual, their wife, their girlfriend, their boyfriend or a representative of the union to be there. I don't think the individual needs to even be in the room if that's what the board chooses, but I think if there is frank discussion that needs to be had without the individual, previously we've asked people to leave the room if there was some discussion or some qualification on an issue either with Dr. Geffroy or with me and we've done that. So, I think you have the ability to do it.

MR. DILLON: If I'm not mistaken, I thought we discussed this last month.

MRS. DOWBEN: Yes, and then I was told to put it on the agenda.

VICE-CHAIRMAN POTENZA: So I understand, are you telling me that in front of the Medical Sub-Committee meeting that you don't want the applicant present while we discuss their case?

MRS. DOWBEN: After they have presented whatever they want to say. They have full time and full opportunity to present anything, but I do believe discussion would be freer should they not be present after that, while it's still closed we're discussing information that's medical or otherwise.

VICE-CHAIRMAN POTENZA: Mr. Chairman, I myself would have to disagree with that because I would think the applicant themselves, that if we have the chance to talk about them or their medical files or whatever they should have the chance to hear what we say about them on their files and their condition so they can rebut whatever has been said.

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SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: There is no requirement that they have to be in the room. Like I said, the state does it without the individual even there. They send them a letter saying your application has been granted or denied. Like I said you have a practice of allowing them in to make their case. You can excuse them and if you need them to come back in to qualify or to ask them a question you can.

MR. MILLER: I was going to say at the meeting if you would prefer to have a close session you make that request to the board and make a motion.

MRS. DOWBEN: Yes, but there was objection to it and I was told to put in on the agenda. So that is why I put it on the agenda.

SENIOR ASSISTANT CITY SOLICITOR CHIAVARINI: Either it's an adopted practice or a policy by the board or case-by-case, you can make the request and if in fact everyone would like to go into Executive Session or everyone would like the individual to leave the room so they can have discussion that's fine. I mean I think it has to be collective. Whatever the board wants to do or the committee wants to do collectively. I mean you may want the frank discussion and someone else may not but I think you can if you want to.

MRS. DOWBEN: Well, that's just it and I don't feel that the holdup should be that historically you haven't done it.

VICE-CHAIRMAN POTENZA: Mr. Chairman, would it be acceptable if we forwarded this to the Rules Committee for discussion and maybe they can adopt a recommendation to the full board.

CHAIRMAN D'AMICO: Is that a motion you made?

VICE-CHAIRMAN POTENZA: I make that motion.

CHAIRMAN D'AMICO: Do I have a second.

MR. NAPOLITANO: I second.

On motion of Vice-Chairman Potenza, seconded by Mr. Napolitano, it is voted to forward the foregoing matter to the Rules Committee for discussion.

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CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed. The "Ayes have it. Motion to adjourn.

ANNA M. STETSON: What about items a. and b.?

MR. MILLER: We took c. up and a. and b. we're going to continue.

- a. Discussion on the Independent Accountant's Report from Braver PC**
- b. Inquiry discussion on the Retirement Benefits for John Simmons – James Potenza**

ANNA M. STETSON: Did you make a motion for those?

MR. MILLER: I will make a motion just to clarify it. That we continue discussion on items a. and b. in Executive Session.

MR. NAPOLITANO: Second the motion.

On motion of Mr. Miller, seconded by Mr. Napolitano, it is voted to continue the foregoing matters.

CHAIRMAN D'AMICO: All those in favor.

COMMITTEE: Aye.

CHAIRMAN D'AMICO: All those opposed. The "Ayes" have it. Our next meeting will be January 28th.

ADJOURNMENT: On motion of Vice-Chairman Potenza, Seconded by
Mr. Napolitano, it is voted to adjourn at 12:10 o'clock P.M.

A handwritten signature in black ink, appearing to read "Anthony M. Iuto". The signature is fluid and cursive, with a long horizontal stroke at the end.

City Clerk

A handwritten signature in black ink, appearing to read "Sheri A. Petronio". The signature is cursive and somewhat stylized.

Assistant Clerk