

**CITY OF PHOENIX
POLICE PENSION BOARD**
101 S. Central Avenue, Suite 600
Phoenix, AZ 85004

October 20, 2006

MEMBERS PRESENT: Mr. Ed Zuercher, Chairperson
Lt. Stan Hoover, Member
Ms. Wendy Larsen, Member
Sgt. Ron Snodgrass, Member
Ms. Gayle Starr, Member

ABSENT: None

ALSO PRESENT: Ms. Donna Buelow, Retirement Program Administrator
Atty. David Niederdeppe, Board Attorney
Ms. Paula Whisel, Recording Secretary
Mr. Tim Jackson, COPERS
Ms. Rabin Castro, Court Reporter
Mr. Darren Nielsen, Disability Applicant
Captain Billy Shields, Fire Department
Mr. Robert Salemi, Fire Department
Ms. Dawn Franklin, Police Department
Chief Jack Harris, Police Department
Chief Scott Finical, Police Reserve Officer

The City of Phoenix Police Pension Board met at 101 S. Central Avenue, Suite 600, Phoenix, Arizona, October 20, 2006, at 12:00 p.m. for the purpose of conducting regular business.

10. **Consideration of Possible Re-Employment of Retirees**

Sgt. Snodgrass moved to convene in executive session at 12:24 p.m. Lt. Hoover seconded the motion. The motion carried unanimously.

[Executive Session took place]

The Board convened in open session at 12:36 p.m.

Chief Scott Finical and **Chief Jack Harris entered the room.**

Chairperson Zuercher stated the Board had received advice from their attorney regarding their obligations as a Board.

Atty. Niederdeppe stated it was his understanding the discussion would be regarding the potential reemployment of any individual who was going to retire from the Phoenix Police Department. He stated the Board had an obligation to look at the circumstances and to make a determination based on concrete facts as to whether that would cause a pension, otherwise payable, to be suspended.

Sgt. Snodgrass stated this item was on the agenda because there had been a recent change in the law.

Chief Harris stated he was currently the Police Chief and had been with the City of Phoenix for 35 years. He stated he was currently in the DROP program and would be retiring January 19, 2007. He explained he would like the Board to consider a possible reemployment scenario and provide information to him regarding whether the possible reemployment would jeopardize the payment of his pension. He stated it was possible he would be asked to be reemployed after his retirement with the City of Phoenix in a different job classification. He stated after a break in service he would possibly be reemployed by the City as a Deputy City Manager with different job duties. He stated the daily operations of the Police Department would be handed by executive officers.

Chief Finical stated Reserve Police Officers are volunteers. He stated he was a Reserve Assistant Chief with the Police Department in a volunteer status. He stated the program currently had about 88 sworn peace officers who volunteered their time. He stated the reserve officers had volunteered over 20,000 hours of service to the City of Phoenix, which had saved the City millions of dollars.

Chief Finical stated the Reserves were hopeful the Board would acknowledge, like the federal government had in its interpretations under the fair labor standards act and employment standards, that Reserve Police Officers were truly volunteers. He stated they expected there would be career officers who retired who would want to be Reserve Officers.

Ms. Larsen asked Atty. Niederdeppe if returning as a volunteer was considered re-employment. Atty. Niederdeppe stated there was case law which clearly differentiated volunteers from employees. He stated in his opinion the court would state it was not reemployment within the meaning of these sections of the statutes which deal with pension suspension issues.

Chief Finical stated the Department of Labor had determined Reserve Police Officers were volunteers and should not be considered employees with regard to compensation, wage and benefit matters.

Lt. Hoover stated one potential conflict with the Reserve Bureau could be officers who had retired due to a disability and then became a Reserve Officer. Chief Finical stated the officers receiving disability benefits would be placed in administrative, non-enforcement positions.

Chairperson Zuercher stated the Reserve issue should be an item on next month's agenda.

Chairperson Zuercher asked Chief Harris if there was a specific action he was requesting the Board to consider. Chief Harris stated this new position had to be authorized by the Mayor and City Council. He stated the attorneys from the City had said there was no issue as far as the City was concerned. He stated before the Mayor and Council went through the effort to approve this position, he wanted to make sure he would not be violating any statute by accepting the position if it were offered to him.

Chairperson Zuercher stated this agenda item was not posted to take a specific action for a specific individual.

Ms. Starr moved to convene in executive session at 1:10 p.m. Sgt. Snodgrass seconded the motion. The motion carried unanimously.

Chief Finical and Chief Harris left the room.

[Executive Session took place]

The Board convened in open session at 1:20 p.m.

Chief Finical and Chief Harris entered the room.

Chairperson Zuercher stated the Board would like a written request from Chief Harris for consideration at a future meeting.

Ms. Larsen stated she was concerned the Fund Manager may have a problem with not enough distinction between the two positions. Chief Harris stated he had met with the Fund Manager's staff and attorney. He stated they indicated they did not have a concern with his possible reemployment in the new position.

A discussion ensued regarding the timing for future Board meetings to discuss Chief Harris' request and retiree participation with the Reserve Program.

Chief Finical and Chief Harris left the room.