

MINUTES
RETIREMENT HEARING COMMISSION
REGULAR MEETING - FEBRUARY 25, 1987- 9:30 A.M.

The Retirement Hearing Commission met in regular session in Conference Room 103, 801 - 9th Street, on February 25, 1987 at 9:34 a.m.

Chairwoman Smith introduced and welcomed new commission member Michael Stamper, designated representative of the Director of Finance.

PRESENT: Hermocillo, Koutrouba, Mayberry, Russell, Sequeira, Smith, Stamper

ABSENT: None

MINUTES OF REGULAR MEETING HELD JANUARY 28, 1987
APPROVED

The Commission received copies of the minutes of the regular meeting held January 28, 1987. Mr. Mayberry moved that the minutes be approved. The motion was seconded by Mr. Koutrouba and carried by the following vote:

AYES: Hermocillo, Koutrouba, Mayberry, Russell, Sequeira, Smith, Stamper

NOES: None

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE REGARDING APPEAL OF JAMES GORDON FOR INDUSTRIAL DISABILITY RETIREMENT BENEFITS
APPROVED

Richard Antoine, Deputy City Attorney, represented the Retirement System Manager. Eugene Treaster, Attorney at Law, represented James Gordon, who was present. The Commission received copies of the exhibits submitted and transcripts of the hearing before the administrative law judge.

Mr. Treaster requested to submit written final arguments to the Commission.

Mr. Antoine requested that he be given an opportunity to review the written arguments before submission to the Commission. The Commission recessed at 9:38 a.m.

The Commission reconvened at 9:47 a.m. After reviewing Mr. Treaster's written final arguments, Mr. Antoine's only objection to the document was the citing of workers' compensation cases and he requested the Commission to disregard those citations. The document was submitted to the Commission.

The Commission recessed at 9:50 a.m. to review the document. The Commission reconvened at 9:57 a.m.

Mr. Antoine and Mr. Treaster presented final arguments and rebuttals before the Commission.

After discussion, Mr. Mayberry moved the Commission adjourn to executive session, *with approval of the appellant.* The motion was seconded by Mr. Hermocillo and was carried by the following vote:

AYES: Hermocillo, Koutrouba, Mayberry, Russell, Sequeira, Smith, Stamper

NOES: None

The Commission reconvened. Mr. Sequeira moved to adopt the decision of the administrative law judge to deny industrial disability retirement benefits and grant ordinary disability retirement benefits. The motion was seconded by Mr. Stamper and carried by the following vote:

AYES: Russell, Sequeira, Smith, Stamper

NOES: Hermocillo, Koutrouba, Mayberry

In reaching their decision, the Commission requested that the Findings and Fact V be amended to read as follows:

Since September 11, 1984, applicant has been examined by several doctors. He did not tell these doctors that he had had any prior back injuries or pain, even when asked. At the hearing he denied having taken medication for low back pain, but had in fact done so, at least in 1972 and for at least three weeks. Accordingly, the medical testimony based on an erroneous history is given lesser weight.

Mr. Sequeira moved to adopt the Findings of Fact as amended. The motion was seconded by Mr. Russell and carried by the following vote.

AYES: Hermocillo, Koutrouba, Mayberry, Russell, Sequeira, Smith, Stamper

NOES: None

There being no further business, the meeting was adjourned at 11:08 a.m. to meet again at the call of the chair.