



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Adopt a resolution determining that Patrick Armitage is incapacitated within the meaning of the Public Employees' Retirement Law

RECOMMENDED MOTION:

Adopt a resolution determining that Patrick Armitage is incapacitated within the meaning of the Public Employees' Retirement Law

SUMMARY

The City recently received an industrial disability retirement application from Patrick Armitage, a Lieutenant in the Police Department. Due to a heart condition that was diagnosed during a physical exam, Lt. Armitage has been on workers' compensation leave status since November 28, 2008. Lt. Armitage has asked that the application be expedited.

Once an industrial disability retirement application is received, CalPERS requires that the determination on a disability retirement application for a public safety member be made by the local governing body. That decision is then submitted to CalPERS in the form of a resolution.

Based on the doctor's report, such a determination can be made and is before the Council in the form of the attached resolution.

Staff asked the City's workers' compensation administrators to review the report submitted by Lt. Armitage's physician. Our administrators had already accepted the case as work related and agree that a disability exists and will continue to exist.

BACKGROUND

Patrick Armitage was hired into the Sausalito Police Department in 1995 as a Police Officer. In 2001, he was appointed to the position of Detective, followed by the appointment to Sergeant in 2002, and finally appointed to the position of Lieutenant in 2008.

Item #: 4B9
Meeting Date: 12-8-09
Page #: 1

Following his appointment as Lieutenant, Lt. Armitage qualified to attend the FBI Academy to further his training. It was during this application process that a heart condition was found. Because of the condition(s), Lt. Armitage could not be physically cleared to qualify for attendance at the Academy.

Lt. Armitage's physician has stated that because of his heart conditions, it is not appropriate for him to participate at the high level that is required of police officers. At this time, his condition is stated to be stable and permanent. Lt. Armitage will require long-term medical therapy for his condition.

As a Lieutenant, Patrick Armitage served in a management position in the Police Department. In addition to the management responsibilities, the job description for a Lieutenant clearly states that this position must be able to act in the capacity of a Police Sergeant. Lt. Armitage clearly cannot perform all the physical duties of a sergeant, who is out on patrol. Additionally, as a Lieutenant, that position must be able to respond to emergencies when additional help is needed on the streets. It would not be uncommon for a Lieutenant to assist in pursuits or other high anxiety roles.

FISCAL IMPACT

There is no direct immediate fiscal impact resulting from an industrial disability retirement. In setting employer rates, CalPERS uses an assumption factor for disability retirements and builds this into the employer rate structure.

Further, in an effort to minimize potential employer rate fluctuations for small employers, CalPERS mandates that groups with less than 100 members be combined into one of ten risk benefit pools. Such risk sharing dramatically reduces or eliminates large fluctuations possible in an employer's retirement contribution rate caused by unexpected demographic changes. In Sausalito, the safety group was automatically pooled because it contains less than 100 members.

Therefore, the fiscal impact of this industrial disability retirement, if any, will be included in the annual employer contribution rates for FY 2012/13 as determined by the CalPERS Actuarial Division for the Safety Risk Pool.

STAFF RECOMMENDATIONS

Staff recommends that the City Council adopt the attached resolution determining that Patrick Armitage is incapacitated pursuant to the reports of his doctor and our workers' compensation administrators agreeing that a disability exists.

Item #: 4B9
Meeting Date: 12-8-09
Page #: 2

ATTACHMENTS

Draft resolution

PREPARED BY:




Debbie Pagliaro
City Clerk

REVIEWED BY:



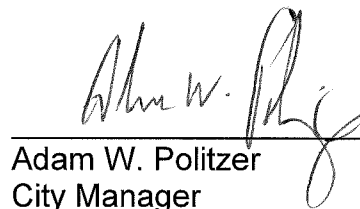
Charles Francis
Administrative Services Director

REVIEWED BY:



Mary Wagner
City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager

Item #: 4B9
Meeting Date: 12-8-09
Page #: 3

Item #: 4B9
Meeting Date: 12-8-09
Page #: 4

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SAUSALITO, CALIFORNIA
DETERMINING THAT PATRICK ARMITAGE IS INCAPACITATED WITHIN
THE MEANING OF THE PUBLIC EMPLOYEES' RETIREMENT LAW**

WHEREAS, the City of Sausalito (herein referred to as Agency) is a contracting agency of the Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such Law; and

WHEREAS, an application for the industrial disability retirement of Patrick Armitage employed by the Agency in the position of Police Lieutenant has been filed with the Public Employees' Retirement System; and

WHEREAS, the City of Sausalito has reviewed the medical and other evidence relevant to such disability.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sausalito does hereby find and determine that Patrick Armitage is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his duties in the position of Police Lieutenant; and

BE IT FURTHER RESOLVED that the City Council of the City of Sausalito does hereby find and determine that such disability is a result of injury(ies) arising out of and in the course of employment.

BE IT FURTHER RESOLVED that the member will be separated from his employment in the position of Police Lieutenant after expiration of his rights under Section 21164, Government Code, effective such date that CalPERS determines that he is qualified for the industrial disability retirement and that no dispute as to the expiration of such leave rights is pending. His last day on regular pay status will be December 15, 2009. Advanced Disability Pension Payments (ADPP) will be made bi-weekly in the amount of \$5,163.00 beginning upon approval of this Resolution, and the ADPP will be paid effective December 16, 2009.

BE IT FURTHER RESOLVED that the City Council does hereby find and determine that there is not a possibility of third party liability.

Item #: 4B9
Meeting Date: 12-8-09
Page #: 5

BE IT FURTHER RESOLVED that the City Council does hereby accept the expert medical report that the primary disabling conditions are due to heart conditions.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the day of , 2009, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

CITY CLERK

Item #: 4B9
Meeting Date: 12-8-09
Page #: 6