

**Public Safety Committee**  
June 26<sup>th</sup>, 2012  
Summary and Motions

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Vice Chair CM Doug Martin called the meeting to order at 11:02am. Council Members present were CM Chuck Ellinger, CM Chris Ford, CM Julian Beard, CM Bill Farmer, CM Kevin Stinnett, CM Jay McChord, and CM Peggy Henson.

Chair CM Diane Lawless arrived at the meeting at 11:25am. CM K.C. Crosbie was absent.

**Public Safety Disability Claims**

Martin introduced Ed Gardner from the Department of Law who began his presentation. Gardner said that the LFUCG Policemen's and Firefighter's Pension Fund (PFRF) was created by state statute, KRS 67A.360 and in general, changes must be accomplished by amendments to KRS.

Gardner said that statutory changes for new hires would be permissible for calculation of final compensation, benefit factors, eligibility for unreduced service retirement benefits and insurance eligibility. He went on to explain that the possible changes for current employees and retirees are limited to cost of living adjustments (COLA), cost of purchase of service (ghost time), payment options, and disability pension payments.

Gardner told committee members that there are two types of disability pensions: occupational and non-occupational. The member is eligible for a non-occupational disability annuity only after five years of employment. They make an application to the Pension board and are then sent to two appropriate doctors. The reports are sent to the Pension board for a decision. If the member is disabled from occupational injury, the benefit is 60% of the last rate of salary. The occupational benefit is increased if the disability percentage exceeds 20%. The non-occupational annuity is 2.5% of a member's average salary for each full year of total service, and is subject to a 25% minimum and a 75% maximum. Gardner also said that since the member is disabled if he/she is unable to perform "the duties of any assigned position in the service, a minor disability can qualify for an annuity."

Gardner informed the committee members that there are potential changes that LFUCG can make including:

- Create job descriptions in police and fire departments to permit minimally disabled officers to maintain employment.
- Extend the period allowed for injury leave and modified duty to allow members to recover for full return to their duties.

Gardner said that the time periods have already been extended considerably in collective bargaining agreements:

- Police: 12 months plus additional six months at Chief's discretion if the doctor provides a definitive return to full duty date.
- Fire: 12 months plus up to an additional 12 months based on doctor's definitive return to work date.

There was a discussion about light duty opportunities and Commissioner Clay Mason said that the administration would be happy to examine potential opportunities. Mason went on to say that there is less incentive to go out on disability with other entities than there is with LFUCG. He did stress, however, that the Kentucky State Police have more opportunities for light duty assignments.

Henson asked Mason if they could place these employees into jobs at E-911. Gardner said that E-911 has a different retirement system but Mason told Henson that they do utilize E-911 for temporary light duty assignments.

Council Members asked Gardner about an employee retiring with just a 1% disability and he said that although that would be possible, he has never seen it happen.

Martin asked Gardner where the interpretation of the ordinance came from. The total disability definition is as follows:

67A.360 (16) "shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely."

Gardner said that it was been interpreted this way for years, and he believes it has been interpreted correctly.

Susan Combs came to the podium and told the committee members that the doctors see both the job description and the ordinance when they examine the patient.

Martin told committee members that he wanted to explore the assumptions of KRS 67A.360 and also look at the reasons why LFUCG is so different from CERS.

Lawless told Martin that the only way they can change this is to go through the state legislature and Martin said that he disagreed.

Lawless called Patrick Johnston from the Division of Risk Management to the podium. Johnston said that Workers Compensation has a 30% penalty for unsafe conditions and LFUCG must be careful when allowing workers to come back to work that are not 100%.

Johnston recommended that the committee bring an expert in to look at the work habits in both professions. Johnston also recommended a managed care system.

Beard said that he had reviewed the firefighter job application and it does not specify whether a firefighter needs to be able to lift 3 ounces or 300 pounds. He said that he feels there are many shades of gray in the application.

Henson asked Johnston if he could provide the number of how many police and fire employees retired on occupational disability vs. non-occupational disability. Johnston said that he could provide the numbers on occupational disability retirements.

Martin asked Mason about the physical fitness tests that are in place for police and fire. Mason said that he is not aware of annual agility testing. Mason said that there are physical fitness tests that are administered annually. Martin also asked Mason about any initiatives that the Administration has in place and Mason mentioned the Pension Task Force.

Martin told Lawless that he would like to keep the issue in committee and bring ordinances to the committee for consideration.

Henson asked Martin if the Pension Task Force had discussed the issue of disability claims and Martin said that they had not.

Martin told committee members that he wants to do everything that can be done to make the work conditions safe for LFUCG police and firefighters. He wants to examine the procedural and occupational issues.

Mason mentioned to the committee that the police and fire Chiefs are putting small work groups together to look at various issues in their departments. The disability issue is a topic they are prepared to discuss.

### **Items Referred**

Mason agreed to present on the chronic nuisance properties at the July 10<sup>th</sup> meeting.

Beard asked that the public safety disability claims be placed on the agenda for the July 10<sup>th</sup> meeting. Lawless agreed to do so.

Beard made a motion to adjourn. Martin seconded the motion. The motion passed without dissent.

*Respectfully submitted by Jenifer Benningfield, Council Administrative Specialist.*