

SPECIAL RETIREMENT BOARD MEETING
AUGUST 4, 2011

A special meeting of the General City Retirement Board was held on August 4, 2011 at 5:00 p.m. in the City Council Chambers at City Hall. The following members were in attendance: Chairman Tom Barnes, Vice-Chairman Rich Miecznikowski, Comptroller Glenn Klocko, Treasurer Rose Parenti, Commissioner Bill Veits, Commissioner Francine Petosa, Mayor Art Ward, and Councilman Terry Parker. Commissioner John Letizia and Commissioner Brian Rooney were not present.

The meeting was called to order at 5:00 p.m. by Chairman Barnes with the following agenda.

Special Retirement Board Meeting
City of Bristol
July 28, 2011

A special meeting of the General City Retirement Board is scheduled for **Thursday, August 4, 2011 at 5:00 p.m.** in the City Hall, Council Chambers 1st floor.

SPECIAL AGENDA

1. Action/Discussion on Tabled Item from Retirement Board Meeting July 14, 2011
Disability Retirement Lilibeth A. Simon.

Per Order of the Chairman,

Glenn S. Klocko
Comptroller and Secretary, Retirement Board

A motion was made by Mayor Ward and seconded by Vice-Chairman Miecznikowski to:

“Discuss the tabled item on Lilibeth A. Simon’s Disability Retirement.”

Mayra Sampson, Payroll and Benefits Manager spoke about the letters written by Linda Boilard Payroll and Benefits Specialist, and Mayra Sampson that were included in the agenda concerning the facts that led up to Lilibeth’s decision to apply for disability retirement. Mayra Sampson stated that Lilibeth was terminated from the Health Dept. and that she later signed an agreement stating that she resigned. Lilibeth was asked what she wanted to do with her pension contributions. She had ten years of service with the Health Department so therefore was eligible for a vesting retirement or could take a disability retirement due to health issues. Lilibeth had health issues so we suggested that maybe she might want to apply for disability retirement. If she was approved for disability retirement she would receive the disability retirement now instead of waiting for a vesting retirement that would be in the future. Her two choices were disability retirement or vesting retirement. In order to apply for disability retirement two independent medical evaluations needed to be performed, and there is no guarantee that the medical evaluations will be approved. Lilibeth was in the hospital and decided that yes she

would try for disability retirement. The two medical evaluations were performed, and she was approved for disability retirement in March of 2011. Secretary Klocko asked about the timing of when someone applies for disability retirement. Mayra Sampson stated that everyone who applies for disability retirement is after they terminate employment and it wasn't a termination she agreed to a resignation. Mayor Ward stated that he had a discussion with Pat Checko former director of the Health Department about Lilibeth's medical situation.

Pat Checko spoke on Lilibeth's behalf as to the fact that Lilibeth had a really bad episode in 2005 where she had her first really bad hospitalization with renal disease and that flex time was arranged for Lilibeth so that she could go for dialysis. Staff at the health department donated time so that she could go for dialysis. The Health department was well aware that Lilibeth was sick and that Lilibeth is certainly disabled.

Secretary Klocko struggles with the letter from Bruce Barth about his decision on the matter. Mayra Sampson stated that Bruce Barth did not know all the facts and did not know all the history. Mayra Sampson went over the ordinance no where in there does it say you cannot be working and then be terminated and not apply for a disability retirement.

Chairman Barnes spoke that there was another case in 2006 of a disability retirement and it was approved.

Secretary Klocko asked about what argument Personnel Director Ferguson had about the matter. Mayra Sampson stated that Personnel Director Ferguson was questioning the fact that at the time Lilibeth was working and eligible to work and even though she terminated she was still eligible to work. It's not Director Ferguson's decision and not our decision. She was sent to two independent doctors and they determined that she was eligible for disability.

Lisa Banatoski-Mehta from Shipman and Goodwin, legal counsel for the Health Department spoke about the fact that the Health Department was not aware that Lilibeth had applied for disability retirement. The Health District received a call from unemployment stating that she was collecting unemployment. It's an understanding that if you are collecting unemployment you are gainfully looking for employment. It was understood by unemployment that Lilibeth was collecting unemployment and collecting a disability retirement.

Secretary Klocko stated that he wasn't clear if Lilibeth was entitled to unemployment.

Mayra Sampson spoke that she had a discussion with Tom O'Brien, Chairman of the Health Department's Board about this matter. In order to collect a disability retirement the person needs to be off the payroll and have ten years of service and that the person has to make a decision as to what they want to do.

While she was waiting for her retirement to be approved, she was collecting unemployment so that she would have some source of income. Mayra Sampson stated that we received a notice from the labor department stating that Lilibeth's last unemployment check was May 14, 2011, and she has not gotten anything since, and that she owes \$1,000.00 back to unemployment.

Lilibeth was not double dipping, and Mayra Sampson stated that unemployment has nothing to do with disability retirement.

Attorney Banatoski-Mehta stated that if you are disabled you are not eligible to work, but if you are collecting unemployment you are eligible to look for employment.

Mayor Ward stated that Lilibeth has a pre-existing condition, and who is going to hire her with that type of condition. Would she be able to work one day or three days, and it would weigh heavily on the decision to hire someone.

Lilibeth spoke on her behalf stating that she stopped receiving benefits in May 2011. She was in the hospital from March 6th to April 23rd and did not receive any unemployment payments. She did notify unemployment when she was in the hospital.

Attorney Banatoski-Mehta asked about the timing of the disability retirement as to when she started getting her retirement payments. Mayra Sampson told her that two medical evaluations were needed, and that it takes a while for those evaluations to be completed. Lilibeth was not approved for retirement till March 2011 receiving her first check at the end of March 2011. Her retirement was retroactive to her separation in October 2010.

Secretary Klocko wants to go back to Bruce Barth for further discussion on the matter and get the full facts. Mayor Ward stated he doesn't feel it would be prudent to go back to Bruce Barth, and that Lilibeth had a pre-existing condition and Chairman Barnes agreed. Mayra Sampson stated that Lilibeth's condition just kept getting worst.

The Health Department's attorney Lisa Banatoski-Mehta agreed with Secretary Klocko that the matter should go back to Bruce Barth for clarification. Attorney Banatoski-Mehta was making the argument about the disability and separation of employment.

Chairman Barnes asked about the wording in the ordinance. Is there a definition of what disability is? Mayra Sampson stated no it just says you can no longer perform your duties.

Councilman Parker spoke about disability and how we should have clear definitions as what it means, and that he has a brother with a disability. He feels that Lilibeth should not be singled out.

Commissioner Veits agrees with Secretary Klocko about getting more information from Bruce Barth.

Secretary Klocko is a little hesitant about making a decision in the matter. He wants to bring Bruce Barth in. Why not wait on a decision, and after Bruce Barth gives us clarification then we can make a decision.

Mayra Sampson stated that the disability language is very vague, and Bruce Barth needs to fix the language. That it is not fair to Lilibeth to have to wait while Bruce Barth is trying to fix the language. The way the language is now, Lilibeth is completely eligible.

Secretary Klocko would still like Bruce Barth to make a decision even if the language is vague.

Treasurer Parenti spoke about going through other employees files who applied for disability in the past, and that the ordinance was last changed in 1987. Treasurer Parenti stated that the ordinance needs to be clarified in the future.

Mayor Ward stated that it is his recommendation that in the future that we should be more diligent in our preparation of retirements so that a qualified decision can be reached in a timely manner. The Mayor thinks the whole process should be looked at so that a qualified decision can be made when presented with all the facts at retirement board meetings.

The Mayor recommended that the ordinance be looked at as soon as possible. The whole process should be looked at.

Secretary Klocko stated that now that he realizes how vague the definition is in the ordinance, and has heard all the facts, he is going to change his mind. He realizes how sick Lilibeth is just by looking at her. He feels that by changing his mind he is making the right decision.

A motion was made by Secretary Klocko and seconded by Vice-Chairman Miecznikowski to:

“Approve the disability retirement for Lilibeth A. Simon.”

Following a roll call vote in which there was no opposition, the Chairman declared the motion carried.

A motion was made by Mayor Ward and seconded by Commissioner Veits to:

“Adjourn at 5:40 p.m.”

Following a voice vote in which there was no opposition, the Chairman declared the motion carried.

Attest:



Glenn S. Klocko
Comptroller and Secretary
Retirement Board

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