



MEMORANDUM

TO: CITY COUNCIL

FROM: DEBORAH MALICOAT, DIRECTOR OF ADMINISTRATIVE SERVICES

SUBJECT: CONSIDERATION OF A RESOLUTION DETERMINING THAT POLICE CHIEF STEVEN ANNIBALI SUFFERS FROM AN INDUSTRIAL DISABILITY

DATE: AUGUST 8, 2017

RECOMMENDATION:

It is recommended the City Council adopt the attached Resolution determining that Police Chief Steven Annibali suffers from an industrial disability.

SUMMARY OF ACTION:

The determination allows an application for industrial disability retirement to proceed.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

No direct financial impact is projected.

BACKGROUND:

Upon application for industrial disability retirement by a public safety employee, the California Public Employees' Retirement Law, Government Code Section 21156 requires that the contracting agency determine whether the employee of such agency is disabled and whether such disability is industrial within the meaning of the law. The disability decision is based upon competent medical opinion and all medical and vocational information provided by the member, employer, and Workers' Compensation carrier. The determination is based on actual/present disability, not prospective inability to perform the job duties. Government Code Section 20046 states that "industrial" means a disability as a result of an injury arising out of and in the course of employment as a local safety member. If there is no application filed with the Workers' Compensation Appeals Board for a determination pursuant to Government Code Section 21166, the agency is required to provide the determination of industrial causation.

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ANALYSIS OF ISSUES:

Chief Annibali sustained an ongoing injury while engaged in the course and scope of his employment with the City of Arroyo Grande. Medical information provided to the City's Workers' Compensation insurance carrier by his treating physician confirms that his injury is disabling. The primary disabling condition is related to the cardiovascular system and heart.

The City has initiated the application for industrial disability with the California Public Employees' Retirement System based on Chief Annibali's medical condition. Upon the City Council adopting the attached Resolution, it will be forwarded to the California Public Employees' Retirement System for processing. Police Chief Annibali's last day on payroll will be August 8, 2017.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt the Resolution;
2. Do not adopt the Resolution; or
3. Provide direction to staff.

ADVANTAGES:

The advantage of adopting the Resolution is that it will allow the processing of California Public Employees' Retirement Law industrial disability retirement benefits for the safety officer consistent with the determination of the treating physician.

DISADVANTAGES:

There are no disadvantages to approving the industrial disability retirement for Chief Annibali.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code 54954.2.

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ARROYO GRANDE DETERMINING THAT POLICE CHIEF STEVEN
ANNIBALI SUFFERS FROM AN INDUSTRIAL DISABILITY
PURSUANT TO GOVERNMENT CODE SECTION 21156**

WHEREAS, the City of Arroyo Grande (hereinafter 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 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 Steven Annibali, employed by the Agency in the position of Police Chief, has been filed with the Public Employees' Retirement System; and

WHEREAS, the City Council of the City of Arroyo Grande has reviewed the medical information and other evidence relevant to such alleged disability.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arroyo Grande as follows:

1. The City Council of the City of Arroyo Grande does hereby find and determine that Steven Annibali is incapacitated within the meaning of the California Public Employees' Retirement Law for performance of his duties in the position of Police Chief and does hereby certify under penalty of perjury that this determination was made on the basis of competent medical opinion and was not used as a substitute for the disciplinary process in accordance with Government Code Section 21156 (a)(2).
2. Steven Annibali filed a Workers' Compensation claim for his disabling condition. The Workers' Compensation claim was accepted.
3. That the City Council of the City of Arroyo Grande does hereby find and determine that such disability is a result of injury or disease arising out of and in the course of employment.
4. That neither Steven Annibali nor the City of Arroyo Grande has applied to the Workers' Compensation Appeals Board for a determination pursuant to Government Code Section 21166 whether such disability is industrial; and
5. That the member will be separated from his employment in the position of Police Chief after expiration of his leave rights under Government Code, Section 21164,

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effective August 8, 2017 and that no dispute as to the expiration of such leave rights is pending. His last day on pay status will be August 8, 2017.

6. That there is not a possibility of third party liability; and
7. That Advanced Disability Pension Payments will be made in the amount of \$2,961.21 bi-weekly beginning August 9, 2017; and
8. The primary disabling condition is cardiovascular system and heart.
9. The duration of the disabling condition is expected to be permanent or last at least twelve consecutive months from the date of the application for benefit or will result in death, which is certified by competent medical opinion, as determined on the basis of competent medical opinion

On motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:

the foregoing Resolution was passed and adopted this _____ day of _____, 2017.

JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER WHITHAM, CITY ATTORNEY

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