

Agenda Item 9b

ITEM NAME: Petition for Reconsideration -- In the Matter of the Calculation of Final Compensation of DANIEL CATALANO, NORMAN (ELDO) E. EVENSON, and Similarly Situated Non-Management Police Officers, Respondents, and CITY OF HUNTINGTON BEACH, Respondent.

PROGRAM: Customer Account Services Division

ITEM TYPE: Action

PARTIES' POSITIONS

Staff argues that the Board of Administration should deny the Petition for Reconsideration.

Respondent argues that the Board of Administration should grant the Petition for Reconsideration.

STRATEGIC PLAN

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

PROCEDURAL SUMMARY

The Board at its May 15, 2013, meeting did not adopt the Proposed Decision of the Administrative Law Judge, but remanded the matter to the Administrative Law Judge for the taking of additional evidence.

Respondents filed a Petition for Reconsideration requesting that this matter not be remanded, and that the Board adopt the Proposed Decision. Respondents have been notified of the date of the Board meeting and of their opportunity to present written argument, to be included in the agenda for the Board meeting on June 19, 2013.

ALTERNATIVES

- A. For use if the Board decides to deny the Petition for Reconsideration and assign the case to an Administrative Law Judge, subject to the procedures provided in Government Code section 11517. The matter would be remanded to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System denies the Petition for Reconsideration submitted by Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers concerning the Board's Decision of May 15, 2013; RESOLVED FURTHER that the case shall be remanded and scheduled for hearing with the Office of Administrative Hearings, after notice is given to all affected parties, where the Administrative Law Judge may base his or her findings upon the record produced before the Administrative Law Judge at prior hearing(s) and any additional evidence including written and oral argument presented by the parties as may be permitted, pursuant to Government Code Section 1157(c)(2)(D).

- B. For use if the Board decides to grant the Petition for Reconsideration and decide the matter upon the record. A transcript of the hearing would be provided to each Board member, and the Board would receive written and/or oral argument at a subsequent meeting and adopt a new Decision upon reconsideration:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, grants the Petition for Reconsideration submitted by Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers concerning the Board's Decision of May 15, 2013; RESOLVED FURTHER that the reconsideration shall be made at a subsequent Board meeting, after notice is given to all affected parties, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board.

- C. For use if the Board decides to grant the Petition for Reconsideration and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, grants the Petition for Reconsideration submitted by Daniel Catalano, Norman (Eldo) E. Evenson, and Similarly Situated Non-Management Police Officers concerning the Board's Decision of May 15, 2013, and hereby adopts as its own Decision the Proposed Decision dated March 15, 2013; RESOLVED FURTHER that this Board Decision shall be effective immediately.

ATTACHMENTS

- Attachment A: Respondent's Petition for Reconsideration and Respondent's Argument
- Attachment B: Staff's Argument
- Attachment C: Transcript of May 15, 2013 Board Meeting
- Attachment D: Proposed Decision

DONNA RAMEL LUM
Deputy Executive Officer
Customer Account Services Division