NOTICE OF A REGULAR MEETING OF THE PUBLIC SAFETY PERSONNEL RETIREMENT BOARD OF THE TOWN OF CLARKDALE
Wednesday, February 20, 2013 at 4:30 P.M.
Administration Conference Room, 39 N. 9th Street, Clarkdale, Arizona

In accordance with Resolution #215 of the Town of Clarkdale, and Section §38-431.002 of the Arizona Revised Statutes,

NOTICE IS HEREBY GIVEN that the Public Safety Personnel Retirement Board of the Town of Clarkdale will hold a Regular Organizational Meeting on Wednesday, February 20, 2013 at 4:30 p.m. in the Town of Clarkdale Administration Conference Room, 39 N. 9th Street, Clarkdale, Arizona. *Members of the Clarkdale Local Public Safety Retirement Board will attend either in person or by telephone, video or internet conferencing.* Pursuant to A.R.S. §38-431.03, the Board may vote to recess the meeting and move into Executive Session on any item, which will be held immediately after the vote and will not be open to the public. Upon completion of Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda.

Supporting documentation and staff reports furnished to the Board with this agenda are available for review on the Town website at www.clarkdale.az.gov and the Town Clerk's Office.

The undersigned hereby certifies that a copy of this notice was duly posted on the Community Development Building bulletin board, located at 890 Main Street, Clarkdale, Arizona on February 14, 2013 at 1:00 p.m.

Dated this 14th day of February, 2013

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you turn it off at this time to minimize disruption to this meeting.

All members of the public are invited to attend.

TOWN OF CLARKDALE
By

Mary Ellen Dunn
MARY ELLEN DUNN
DEPUTY TOWN CLERK

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR DISCUSSION AND POSSIBLE ACTION, UNLESS OTHERWISE NOTED.

1. CALL TO ORDER.

2. PUBLIC COMMENT. The Local Board of the Public Safety Personnel Retirement System for the Town of Clarkdale invites the public to provide comments at this time.

Members of the Board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(G), action taken as a result of public comment shall be limited to directing staff to study the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Board Secretary during the meeting. Each speaker is asked to limit their comments to five minutes.

OLD BUSINESS

3. **APPROVAL OF MINUTES OF THE LOCAL BOARD.** Approval of the Minutes of the Regular Meeting held September 5, 2012.

4. **REVIEW OF DRAFT OF ORGANIZATIONAL BY-LAWS.** Discussion and consideration of modification and/or acceptance of the By-Laws Draft.

5. **SECRET BALLOT RESULTS.** Announcement of results of secret ballot vote for Police Department member.

NEW BUSINESS

6. **ACCEPTANCE OF OFFICER PRE-EMPLOYMENT PHYSICALS.** Discussion and consideration of method to document current officers' Pre-employment Physicals as required by Trustees.

7. **APPOINTMENT OF REPRESENTATIVE(S) TO REVIEW OFFICER PRE-EMPLOYMENT PHYSICALS.** Discussion and consideration of Board selection of representative(s) to review officer pre-employment physicals for determination of pre-existing conditions.

8. **FUTURE AGENDA ITEMS** – Listing of items to be placed on a future Board agenda.

9. **ADJOURNMENT.**

Reasonable accommodations may be requested by contacting Town Hall at (928) 639-2453 at least 72 hours in advance of the meeting.

MINUTES of a SPECIAL MEETING OF THE PUBLIC SAFETY PERSONNEL RETIREMENT BOARD OF THE TOWN OF CLARKDALE, HELD AT 4:30 P.M. ON WEDNESDAY, SEPTEMBER 5, 2012 IN THE ADMINISTRATION CONFERENCE ROOM, TOWN HALL, 39 N. 9TH ST., CLARKDALE, ARIZONA

CALL TO ORDER – Meeting was called to order at 4:30 p.m. by Vice Chair Amy Bayless.

Board Members:	Chair	Doug Von Gausig (absent)
	Citizens	Amy Bayless, Vice Chair
		Ann Found
	Members	Tommy Nester
		Robert Church

Staff Members: Kathy Bainbridge, Mary Ellen Dunn

Others in Attendance: John Wintersteen

PUBLIC COMMENT – The local Board of the Public Safety Personnel Retirement System for the Town of Clarkdale invites the public to provide comments at this time. Members of the Board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01(G), action taken as a result of public comment shall be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Board Secretary during the meeting. Each speaker is asked to limit their comments to five minutes.

There was no public comment.

Roll call of members. It was noted that Mayor Von Gausig was absent. A quorum was present.

NEW BUSINESS

Election of proposed new members to Board. It was noted that, by State law, the Town Mayor is required to serve as Chair.

Tommy Nester moved that Amy Bayless continue in her current role as Vice Chair. Robert Church seconded the motion. The motion was passed unanimously.

Election of Police Department staff representatives and Board secretary.

Police Department members of the Local Board will be elected by secret ballot. There is one opening available. A secret ballot will be provided to all officers currently in the PSPRS system and returned to the Board Secretary.

Amy Bayless nominated Town staff Mary Ellen Dunn as local Board Secretary. Tommy Nester seconded the motion.

Discussion followed. Ann Found asked if it was required that the Board Secretary be a staff member. The consensus was that it was more consistent and simpler with a small department to have the Board Secretary be a staff member.

The motion was approved unanimously.

Approval of process for adopting by-laws.

Volunteer John Wintersteen discussed the draft of the by-laws. Tommy Nester moved to allow John Wintersteen to continue on his draft of the by-laws and, when completed, finalize the draft at the next meeting. Ann Found seconded the motion. The motion was approved unanimously.

Official approval of retirement of Patrick Haynie.

Tommy Nester moved to approve Patrick Haynie's retirement "as is". Ann Found seconded the motion. The motion was approved unanimously.

Without objection, Vice Chair Bayless adjourned the meeting at 5:55 p.m.

ADJOURNMENT: With no further business before the Board, Vice Chair Bayless adjourned the meeting at 5:55 p.m.

Submitted by:

Mary Ellen Dunn, Secretary

Approved by:

Doug Von Gausig, Chair

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the local board of the Public Safety Personnel Retirement System of the Town of Clarkdale, Arizona held on the 5th day of September, 2012.

SEAL

Mary Ellen Dunn, Secretary

Staff Report

Agenda Item: **REVIEW OF DRAFT OF ORGANIZATIONAL BY-LAWS** – Consideration and review of draft of By-Laws by Board.

Meeting Date: February 20, 2013

Prepared By: Mary Ellen Dunn, Local Board Secretary

Background: The Public Safety Personnel Retirement System has a template for By-Laws on its website which has been adapted for the Local Board of the Town of Clarkdale and is attached for Board review, modifications, and ultimate approval.

Recommendation: This agenda item is for review and discussion only.

TOWN OF CLARKDALE
MODEL UNIFORM RULES OF LOCAL BOARD PROCEDURE
CREATED PURSUANT TO A.R.S. § 38-847 (F)

Adopted by the Town of Clarkdale Public Safety Personnel Retirement System Board on XXXX

A. Definitions

1. "A.R.S." means Arizona Revised Statutes.

2. "Administrator" means the Administrator of the Plan (including any persons authorized by the Administrator to act for the Administrator) acting for the benefit of the Board of Trustees as more particularly described in A.R.S. § 38-848(L).

3. "Board of Trustees" has the meaning ascribed to that term in A.R.S. § 38-842(8).

4. "Claim" means any request for relief under the Plan involving all questions of eligibility and service credits, which is properly before a Local Board for Decision, pursuant to A.R.S. § 38-847(D).

5. "Claimant" has the meaning ascribed to that term in A.R.S. § 38-842(11).

6. "Decision" means (i) a separate written document setting forth the Local Board's action resolving a Claim; or (ii) any orders issued by a Local Board relating to a Claim, including orders denying a request for Rehearing or further relief. As required by A.R.S. § 38-847(G), a Decision shall contain, at a minimum, (a) the name of the member affected by the Local Board's action; (b) a description of the action taken; and (c) an explanation of the reasons supporting the Local Board's action.

7. "Decision on Rehearing" means a Decision issued by the Local Board after a Rehearing.

8. "Employee" has the meaning ascribed to that term in A.R.S. § 38-842 (27).

9. "Employer" has the meaning ascribed to that term in A.R.S. § 38-842 (28).

10. "Hearing" means the Local Board's initial public Meeting concerning a Claim, which is conducted in accordance with the Open Meeting Law and these Rules.

11. "Initial Decision" means the first Decision on a Claim issued by the Local Board.

12. "Local Board" means that public body described in A.R.S. § 38-847.

13. "Meeting" is a gathering of a quorum of the Local Board to conduct business and to hold Hearings and/or Rehearings, which is conducted in accordance with the Open Meeting Law and these Rules.

14. "Member" has the meaning ascribed to that term in A.R.S. § 38-842(31).

15. "Minutes" means the written official record of the proceedings, including the testimony of witnesses. Minutes are a separate written document from the Decision.

16. "Non-Routine Claim" means any Claim that is not a Routine Claim, including, but not limited to, Claims for the following: (i) a "killed in the line of duty" survivor pension; (ii) an accidental disability pension; (iii) a catastrophic disability pension; (iv) an ordinary disability pension; (v) a temporary disability pension; or (vi) determinations for plan membership concerning whether the Employee is or was regularly assigned to hazardous duty.

17. "Notice" means a written Notice of Hearing or Rehearing, as applicable, which includes, at minimum: (i) a statement of the time, place and nature of the Hearing or Rehearing; (ii) a statement of the legal authority and jurisdiction under which the Local Board will be conducting the Hearing or Rehearing; (iii) a reference to the particular section(s) of the Arizona Revised Statutes (and/or any other applicable rules) involved in the particular matter presented for Decision; and (iv) a short and plain statement of the matters asserted by the Claimant or issues to be considered at the Hearing or Rehearing.

18. "Open Meeting Law" is that body of laws described in Title 38, Ch. 3, Article 3.1 of the Arizona Revised Statutes, which requires public bodies, such as the Local Board, to hold its meetings and conduct its activities in public, except in those limited circumstances described in A.R.S. § 38-431.03.

19. "Party or Parties" means the Claimant, Local Board and Board of Trustees.

20. "Plan" means the Public Safety Personnel Retirement System, as described in A.R.S. § 38-841 *et seq.*

21. "Political Subdivision Local Board" means any Local Board that is not a State Agency Local Board. Examples of Political Subdivision Local Boards are Local Boards where the sponsoring Employer is a municipality, county, tribal nation or fire district.

22. "Pre-Membership Physical" means a medical examination of an Employee before the Employee joins the Plan, for the purpose of identifying physical or mental conditions or injuries, which existed or occurred prior to the Employee's date of membership in the Plan, pursuant to A.R.S. § 38-859(A)(1).

23. "Presiding Officer" means the Chair or Acting Chair of the Local Board, who presides over any Meeting, Hearing or Rehearing.

24. "Rehearing" means a public Meeting before the Local Board that is conducted in accordance with the Open Meeting Law and these Rules, to consider a Claimant's or the Board of Trustee's request that the Local Board reconsider its Initial Decision, as provided by A.R.S. § 38-847(H).

25. "Routine Claim" means a Claim for any of the following: (i) a normal retirement pension; (ii) a normal survivor pension; (iii) a determination of eligibility for Plan membership other than that involving whether the Employee is or was regularly assigned to hazardous duty; (iv) a survivor's pension that is not a "killed in the line of duty" survivor's pension; (v) request for service credit; and (vi) initiation or termination of Deferred Option Retirement Plan participation.

26. "Rules" means these Model Uniform Rules of Local Board Procedure authorized by A.R.S. § 38-847(F).

27. "Secretary" means the person so designated and elected pursuant to A.R.S. § 38-847(M), who is charged with keeping a record and preparing agendas, Minutes and Decisions of all Hearings and Rehearings of the Local Board.

28. "State Agency Local Board" means any Local Board where the sponsoring Employer is an agency, board, commission, department or other administrative unit of the State of Arizona. An example of a State Agency Local Board is the Department of Public Safety PSPRS Local Board.

29. "Subcommittee" means a group of no more than two Local Board members appointed by the Board Chair to undertake Local Board business.

B. Purpose and Scope of Procedures

1. Board Responsibility. Pursuant to A.R.S. § 38-847(D), the Local Board is responsible for deciding all questions of eligibility and service credits, and determining the amount, manner and time of payment of any benefits under the Plan. The Board of Trustees cannot pay any benefits under the Plan without the direction and approval of the Local Board.

2. Scope. These Rules govern all Claims before the Local Board for Decision, effective for any Claims brought, and any Hearing and Rehearing held, after the effective date of adoption of these Rules by the Local Board.

3. Conflict. These Rules are authorized by A.R.S. § 38-847(F) and supplement all authority of the Local Board specified in that statute. Should any of these Rules conflict with any provision of A.R.S. § 38-847 or any other Arizona law, the provisions of Arizona law shall control. These procedures govern State Agency Local Boards as well as Political Subdivision Local Boards. However, State Agency Local Boards may be subject to additional laws as provided by Title 41, Article 6.

4. No Legal Advice. These Rules do not constitute legal advice. Local Boards are encouraged to consult with their independent attorneys to resolve questions of law.

C. Composition of the Board and Conduct of Meetings

1. Composition. The membership of each Local Board is determined by whether the participating employer is a political subdivision, Indian tribal nation, state agency, non-profit corporation or fire district, as set forth in A.R.S. § 38-847(A).

2. Chair. The provisions for electing a Chair are found in A.R.S. § 38-847(A). For political subdivisions and Indian tribal nations, the Mayor or Chief Elected official or their designee shall serve as Chair of their respective Local Boards. The Chair may, in his/her absence, designate an alternate to act as Chair. In the absence of the Chair or the Chair's designee, an acting Chair shall be elected by the majority vote of the Local Board.

3. Secretary. Pursuant to A.R.S. § 38-847(M), the Local Board shall elect a Secretary who may, but need not, be a member of the Local Board.

4. Quorum. A quorum consists of a majority of the statutory membership of the Local Board. A.R.S. § 1-216(B). For a Local Board comprised of five (5) members, a quorum for the purpose of doing any business is generally three (3) members.

5. Meetings, Minutes and Decisions. Meetings are generally held at **{designate a regularly scheduled date/time}**, but can be held at any time upon the call of the Chair, any two members of the Local Board, or the Secretary of the Local Board, with appropriate notice to the members of the Local Board and the public. Each Local Board shall meet at least twice a year.

   a. Meetings are held at **{designate a location}**.
   b. The Secretary shall provide an agenda to Local Board members in advance of any Meeting, describing the business to be addressed at such Meeting. The content of the agenda shall comply with the Open Meeting Law.
   c. Notice of all Meetings of the Local Board shall be given, and all Meetings and any executive sessions shall be conducted, in conformance with the Open Meeting Law.
   d. Provided the quorum is met, a majority vote of Local Board members present and eligible to vote shall govern any action taken.
      i. Local Board members not present in person may attend by telephone or other electronic means permitting meaningful participation in accordance with the Open Meeting Law.
   e. The Secretary shall cause appropriate Minutes to be taken of Local Board Meetings, and an electronic recording may be made of Meetings to facilitate preparation of such Minutes.
      i. Such electronic recording will be maintained at least until Minutes have been transcribed and approved by the Local Board.
      ii. So long as such action is in accordance with a Local Board's records retention, storage and destruction policy, the Secretary may destroy the electronic recording of a Local Board Meeting after the Minutes of such Meeting have been approved. The Secretary will prepare and retain a certificate of destruction when any electronic recordings are destroyed.
   f. The Secretary shall forward to the Board of Trustees (in care of the Administrator) a copy of each Local Board Decision on a Claim no later

than twenty (20) business days after the Local Board takes action on such Claim, pursuant to A.R.S. § 38-847(G). Decisions shall be sent by certified mail to the Administrator as required by A.R.S. § 38-847(H)(2). As required by A.R.S. § 38-847(G), a Decision shall contain, at minimum: (i) the name of the member affected by the Local Board's action; (ii) a description of the action taken; and (iii) an explanation of the reasons supporting the Local Board's action.

g. Unless the Claimant is present at a Meeting at which the Local Board announces its Decision on a Claim, at the same time that the Secretary forwards the Decision to the Administrator, the Secretary shall forward the Decision to the Claimant via certified mail, pursuant to A.R.S. § 38-847(H)(1).

h. The Secretary shall forward all Minutes to the Board of Trustees, in care of the Administrator, within forty-five (45) days after each Local Board Meeting, and forward all necessary communications to the Board of Trustees, in care of the Administrator, pursuant to A.R.S. § 38-847(M).

6. Documentation. In a location separate from any employment or Department files, the Local Board Secretary shall maintain files for each Claimant, containing public and confidential documents presented to the Local Board.

D. Pre-Membership Physical

1. Examination. Pursuant to A.R.S. § 38-859(A)(1), the Local Board shall contract with a physician or clinic to conduct a Pre-Membership Physical of Employees, for the purpose of identifying physical or mental conditions or injuries, which existed or occurred prior to an Employee's date of membership in the Plan. The physician or clinic conducting a Pre-Membership Physical may be the regular employee or contractee of the Employer.

2. Appointment. The Employer (or the Employee's department) or the Secretary shall coordinate appointments for the Employee's Pre-Membership Physical.

3. Report. The physician or clinic retained to conduct an Employee's Pre-Membership Physical shall provide a written report of the results of the Pre-Membership Physical to the Secretary within 10 days after the examination.

4. No Pre-Existing Condition. If the physician or clinic's report on an Employee with respect to his pre-membership condition concludes that the Employee has no

pre-existing condition, the Secretary shall file the report as a permanent record, as required by A.R.S. § 38-859(E).

5. Finding Of Pre-Existing Condition. If the physician or clinic's report on an Employee with respect to his pre-membership condition concludes that the Employee has a pre-existing condition:

   a. The Secretary shall notify the Employee that the physician or clinic has reported that the Employee has a pre-existing condition. The Employee shall have 30 days to submit additional documentation or comments to the Secretary before the physician or clinic's report is placed on an agenda for the Local Board's consideration.
   b. Reports concerning an Employee's pre-existing condition shall be placed on the Meeting agenda for recognition by the Local Board.
   c. The Secretary shall provide the Local Board with any additional documentation or comments submitted by an Employee regarding a physician or clinic's conclusion that an Employee has a pre-existing condition.
   d. The Local Board shall review the physician or clinic's report and any additional documentation submitted by the Employee at a Meeting. After review of the relevant documents, the Local Board will take any action the Local Board deems necessary and appropriate.
   e. The Secretary shall file all reports concerning an Employee's pre-existing conditions as a permanent record, as required by A.R.S. § 38-859€, along with any additional documentation and comments provided by the Employee, and appropriate records of any actions or determinations by the Local Board with respect to same. In the event a Member whose Pre-Membership Physical revealed a pre-existing condition applies for an accidental, catastrophic, ordinary, or temporary disability pension, all such documentation related to the Member's pre-existing condition will be presented to the Local Board. If the Local Board determines that a Member's disability resulted from a physical or mental condition or injury, which existed or occurred prior to the Member's date of membership in the Plan, the Member shall not qualify for an accidental, catastrophic, ordinary, or temporary disability pension.

E. Initial Decision

1. Submitting Claims. A Claimant may request that the Local Board issue an Initial Decision by presenting an application for benefits or service credit to the Secretary, using the prescribed Plan forms.

2. Content of Claims. If desired, a Claimant may supplement the application for benefits or service credit by submitting a letter to the Secretary. In order for any supplemental letter to be considered by the Local Board, such letter shall set forth: (i) the name and address of the Claimant; (ii) the name and address of the Claimant's attorney, if applicable; (iii) a brief statement of the facts forming the basis of the Claim, including any evidence relevant to the Local Board's Decision on the Claim; and (iv) the precise relief sought by the Claimant from the Local Board.

3. Routine Claims; Consent Agenda. A Local Board may authorize its Secretary to determine whether a Claim is to be treated by the Local Board as Routine or as Non-Routine, and to present Routine Claims as a "Consent Agenda" item. Ordinarily, the Secretary does not provide Notice of a Hearing to Claimants for Routine Claims on the Consent Agenda, because the Local Board generally approves Consent Agenda items summarily. If a Routine Claim on the Consent Agenda warrants discussion by the Local Board, the Claim may be deferred to a future Hearing in order to provide Notice to the Claimant.

4. Non-Routine Claims. All Non-Routine Claims are subject to this Section E concerning an Initial Decision. However, more detailed procedures for certain Non-Routine Claims, specifically disability benefit applications and re-examination of disability recipients, are set forth in Sections F and G of these Rules. Other Non-Routine Claims shall be placed on the agenda for consideration by the Local Board, after appropriate Notice to the Claimant.

5. Deadline for Scheduling and Hearing on Routine and Non-Routine Claims.

   a. Hearing are held at Meetings as provided by Section C(5) of these rules.
   b. Unless the Parties otherwise agree, the Local Board shall schedule a Hearing on a Routine or Non-Routine Claim within sixty (60) days of its receipt of the Claim, pursuant to A.R.S. § 41-1092.05.
   c. Unless the Claimant and all other parties to the Claim otherwise agree, the Local Board shall commence a Hearing on a Routine or Non-Routine

Claim within ninety (90) days of its receipt of a Claim, pursuant to A.R.S. § 38-847(D)(3).

d. If the Local Board does not commence a Hearing on a Claim within ninety (90) days of its receipt of the Claim:

i. The Claimant shall notify the Administrator and Secretary by letter sent by certified mail that the Local Board has failed to convene a Hearing within ninety (90) days of the filing of a Claim.

ii. As provided by A.R.S. § 38-847(D)(3), the relief demanded by the Claimant is deemed granted and approved by the Local Board. The granting and approval of this relief is considered final and binding unless a timely request for Rehearing or appeal is made, or unless the Board of Trustees determines that granting the relief requested would violate the Internal Revenue Code or threaten to impair the Plan's status as a qualified plan under the Internal Revenue Code. If the Board of Trustees determines that granting the requested relief would violate the Internal Revenue Code or impair the Plan's status as a qualified plan, the Board of Trustees may refuse to grant the relief by issuing a written determination, sent certified mail to the Local Board and the Claimant. The written determination issued by the Board of Trustees is subject to judicial review pursuant to title 12, chapter 7, article 6.

iii. As provided in A.R.S. § 38-847(H), the Board of Trustees may request a Rehearing within sixty (60) days after receiving notice from the Claimant by letter sent by certified mail that the Local Board has failed to convene a Hearing within ninety (90) days of the filing of a Claim. However, if the relief deemed granted and approved by the Local Board violates the Internal Revenue Code or threatens to jeopardize the Plan's status as a qualified plan under the Internal Revenue Code, no limitation period for the Board of Trustees to seek a Rehearing applies.

6. Issuance of Decision. When a Hearing is held within the deadlines set forth in Section E(5) of these Rules, the Secretary shall forward the Decision, Minutes and other necessary communications, as provided in Section C(5)(f)-(h) of these Rules.

7. Finality of Decision. Pursuant to A.R.S. § 38-847, any Decision that is not inconsistent with the provisions of the Plan and the Internal Revenue Code shall be final, conclusive and binding on the Claimant and the Plan, unless a timely

application for a rehearing is filed as provided in Section H of these Rules, or an appeal is filed. However, the Board of Trustees may not implement and comply with any Decision that does not comply with the Internal Revenue Code or that threatens to jeopardize the Plan's status as a qualified plan under the Internal Revenue Code, and under such circumstances, no limitation period for the Board of Trustees to seek a rehearing of a Decision applies. A final decision may be appealed to the Yavapai County Superior Court for the State of Arizona within the periods specified in, and the manner provided by, the Arizona Revised Statutes (*see* A.R.S. § 12-901 *et seq.*) and the rules adopted by the Yavapai County Superior and Appellate Courts of the State of Arizona.

F. Disability Benefit Applications

1. Disability Application. Upon presentation of a properly completed application for any of the disability pensions authorized by law, the Secretary will determine whether the Claimant has provided complete documentation supporting the Claim referenced in the application. If the information is incomplete, the Secretary shall request that the Claimant provide additional documentation and may assist the Claimant in identifying deficiencies or incomplete items in the application. The Secretary shall also obtain from the Employer any documentation contained in workers' compensation records. A confidential packet of medical information on the Claimant shall be prepared for distribution to Local Board members. When the Claimant's application is complete, the Claim shall be placed, as a separate item, on the agenda for a Meeting, Pursuant to Section E(5) of these Rules.

2. Initial Hearing. At the initial Hearing on a Claim for disability benefits, the Local Board will determine whether the medical and other documentation submitted is sufficient for the Local Board to conclude that the statutory prerequisites are satisfied by the Claimant. If the statutory prerequisites are satisfied, pursuant to A.R.S. § 38-859(A), the Local Board shall direct that a medical board be appointed to conduct an examination of the Claimant and to report to the Local Board the results of that examination. If the statutory prerequisites are not satisfied, the Local Board may deny the Claim based on a lack of evidence, either medical or otherwise, such as the Claimant's continued work status or the Claimant's performance of a reasonable range of duties. In the alternative, the Local Board may continue the Hearing on the matter to a date and time when any additional documentation requested by the Board is available.

3. Independent Medical Board. Pursuant to A.R.S. § 38-859(B), medical boards appointed pursuant to A.R.S. § 38-859(A)(2)-(5) shall be composed of a

designated physician or a clinic other than a regular employee or contractee of the employer.

4. Mental Examinations. In the event of a psychological disability application, the medical board will consist of a psychologist and a psychiatrist. The psychologist will meet with the Claimant, and issue a report containing his conclusions. The psychologist's report will be forwarded to the psychiatrist, who will meet with the Claimant, and, based upon the medical evidence and psychologist's report, the psychiatrist shall issue a report containing his conclusions to the Local Board.

5. Prompt Hearing. If a medical board is appointed, the Secretary shall reconvene the Hearing at the first feasible Meeting after the Local Board members' receipt of the medical board's report, unless the Claimant requests in writing otherwise.

6. Disability Findings. Pursuant to A.R.S. § 38-859(C), a finding of disability shall be based on medical evidence provided by the medical board appointed by the Local Board. The Local Board shall resolve material conflicts in the medical evidence. If required, the Local Board may employ other physicians or clinics to report on special cases. With the approval of the Local Board, a physician or clinic employed by the Local Board may employ occupational specialists to assist the physician or clinic in rendering an opinion.

7. Approval of Disability Claim. If a Claim for disability benefits is approved by the Local Board, the Secretary will obtain Employer certification of the Claimant's employment termination date and indicate the determination of the Board on the disability pension on proscribed Plan forms. If the Board Secretary cannot obtain certification of the termination of the Claimant's employment within forty-five (45) days, the Claimant's application for disability benefits will be considered withdrawn. Until such time as the Claimant has terminated employment with his Employer, the Local Board shall not consider any further Claim by the Claimant for disability benefits.

8. Denial of Disability Claim. If a Claim for disability benefits is denied by the Local Board, and the Claimant is not present at the Meeting, the Secretary will notify the Claimant in writing by certified mail of the Decision of the Board, the reasons for the Decision, and the Claimant's rights to a Rehearing.

G. Reexamination of Disability Recipients

1. Catastrophic Disability Benefits Pursuant to A.R.S. § 38-844 (F)

a. Sixty (60) months after approval of a Catastrophic Disability, the Local Board must undertake a re-evaluation of a Member receiving catastrophic disability benefits to determine whether the Member remains qualified for such benefits, as specified in A.R.S. § 38-844(F).

b. After the initial sixty (60) month review, the Local Board is empowered to undertake an annual reevaluation of Members receiving catastrophic disability benefits, who, had they remained in employment, would not have attained 25 years of service.

c. On an on-going basis, the Secretary will prepare a list of Members receiving catastrophic disability benefits who may be required to undergo an annual reevaluation pursuant to Section G(1)(b) of these Rules.

d. At the direction of the Chair, a Subcommittee of the two elected members of the Local Board shall review the list of Members prepared pursuant to Section G(1)(c), and report the Subcommittee's recommendations regarding medical reevaluation of such Members to the Local Board.

e. The Secretary shall place the issue of re-examination of a Member receiving catastrophic disability benefits on an appropriate Meeting agenda as a separate item.

2. Accidental and Ordinary Disability Benefits Pursuant to A.R.S. § 38-844(E).

a. In its discretion, the Local Board may require Members receiving accidental or ordinary disability benefits to undergo an annual medical examination to determine whether they are still disabled and therefore, qualified for continued disability benefits.

b. On an on-going basis, the Secretary will prepare a list of Members receiving accidental and disability benefits who may be required to undergo an annual medical reevaluation pursuant to Section G(2)(a) of these Rules.

c. At the direction of the Chair, a Subcommittee of the two elected Members of the Local Board shall review the list of Members prepared pursuant to Section G(2)(b), and report the Subcommittee's recommendations regarding medical reevaluation of such Members to the Local Board.

3. Medical Boards Appointed Pursuant to A.R.S. § 38-859.

a. The Local Board shall appoint a medical board to examine any Member required to obtain, or selected for, reevaluation pursuant to Sections G(1), (2) of these Rules. If the Member refuses to submit to the medical board reevaluation, the Member's disability shall be considered to have ceased and the Member's disability pension terminated.

b. A formal report of the medical board on the results of the reevaluations referenced in Section G(3)(a) above shall be submitted to the Local Board. The Local Board shall review any such report at the first scheduled Meeting after receipt of the report, and shall take any action warranted, as permitted by the relevant statutes.

H. Rehearings.

1. Application for Rehearing.

a. A Claimant's application for Rehearing must be filed within sixty (60) days after the Claimant receives notification of the Initial Decision by certified mail, by attending the Meeting at which the Initial Decision is rendered, or by receiving benefits from the Plan pursuant to the Initial Decision, whichever occurs first.

b. The Board of Trustees' application for Rehearing must be filed within sixty (60) days after the Board of Trustees receives a copy of the Initial Decision by certified mail.

2. Rehearings Granted. The Local Board will conduct a Rehearing of any matter upon proper and timely application by a Claimant or the Board of Trustees, pursuant to A.R.S. § 38-847(H).

3. Preparation of a Preliminary Record. Upon receipt of a proper and timely application for Rehearing, the Secretary shall prepare a packet consisting of all documents and other tangible items of evidence made available to the Local Board with respect to the underlying issues. The Secretary may obtain a written transcript of any previous proceedings of the Local Board in connection with the matter, for inclusion in such packet. The Rehearing packet shall be made available to the Local Board members and shall be provided to all Parties to the

Rehearing. This packet of materials shall constitute the preliminary record for the Rehearing.

4. Scheduling of Rehearing. When the preliminary record is complete, the Secretary will schedule the Rehearing for the next scheduled Meeting or for such other date and time as may be determined. Rehearings are not subject to the time limitations set forth in Section E(5) of these Rules.

5. Local Board Action on Rehearing. At or after the conclusion of the Rehearing, the Local Board may vote to uphold, rescind or modify its Initial Decision.

6. Issuance of Decision on Rehearing. When a Rehearing is held, the Secretary shall forward the Decision on Rehearing, Minutes of Rehearing and other necessary communications, as provided in Section C(5)(f)-(h) of these Rules.

7. Finality. Pursuant to A.R.S. § 38-847, any Decision on Rehearing that is not inconsistent with the provisions of the Plan and the Internal Revenue Code shall be final, conclusive and binding on the Claimant and the Plan, unless a timely appeal is filed. However, the Board of Trustees may not implement and comply with any Decision on Rehearing that does not comply with the Internal Revenue Code or that threatens to jeopardize the Plan's status as a qualified plan under the Internal Revenue Code. A final Decision on Rehearing may be appealed to the Yavapai County Superior Court for the State of Arizona within the periods specified in, and the manner provided by, the Arizona Revised Statutes (*see* A.R.S. § 12-901 *et seq.*) and the rules adopted by the Yavapai County Superior and Appellate Courts of the State of Arizona.

I. General Provisions Applicable to All Hearings and Rehearings.

1. Review of Medical Records. The Local Board shall review and discuss any confidential medical records in executive session only, unless the Claimant or Member waives the confidentiality requirement with respect to any confidential medical records by completing a confidentiality waiver.

2. Exclusion of Evidence. The Presiding Officer may preclude the presentation of argumentative, repetitious or irrelevant facts or questioning in any proceeding on a Claim.

3. Argument and Evidence. The Presiding Officer shall rule on all evidentiary or procedural objections. Each Party is entitled to make an opening statement. The

Party with the burden of proof shall begin the presentation of evidence, unless the Parties otherwise agree or the Presiding Officer determines that another order would be more expeditious or appropriate and would result in no material prejudice. The Presiding Officer shall determine the order of witness examinations, which shall be such as will expedite the Hearing or Rehearing and insure the proceeding is fair. The Presiding Officer may, but is not required to, administer oaths to witnesses and each Party. Each Party is entitled to present a closing argument in the order determined by the Presiding Officer. Each Party is entitled to be represented by counsel, submit evidence, offer arguments, and cross examine witnesses.

4. Informal Proceedings. All Hearings and Rehearings shall be conducted in an informal manner and without adherence to the rules of procedure or evidence required in judicial proceedings. The manner of conducting the Hearing or Rehearing, rulings on evidentiary or procedural objections, and the failure to adhere to rules of procedure or evidence required in judicial proceedings shall not be grounds for reversing a Decision of the Local Board provided substantial evidence supports such order or Decision.

5. Notice of the Truth of Widely-Known and Accepted Facts. The Presiding Officer may take notice of the truth of certain widely known and accepted facts, including generally recognized technical, statistical, actuarial or scientific facts within the Local Board's specialized knowledge. Parties shall be notified, either before or during the Hearing or Rehearing, of any widely known and generally accepted facts noticed as true, including any staff memoranda or data. Parties shall be afforded an opportunity to contest any material so noticed. The Local Board's experience, technical competence and specialized knowledge may be utilized in its evaluation of all evidence. The Local Board shall be entitled to consider and rely on as true information furnished by the Employer, Administrator, the Local Board's independent legal counsel or the Plan's actuary.

6. Failure to Appear at Hearing. In the event a Claimant (and the Claimant's counsel, if any) fails to appear at a duly noticed Hearing or Rehearing, in its discretion, the Local Board may enter a Decision by default or vacate the Hearing or Rehearing. If a witness fails to appear at a duly noticed Hearing or Rehearing, in his discretion, the Presiding Officer may exclude the witness's testimony or reschedule the Hearing or Rehearing.

7. Limitation of Issues. All Hearings and Rehearings shall be limited to matters referenced in the Claim and any request for Rehearing filed by any Party.

8. Record of Proceedings. All Hearings and Rehearings shall be recorded by electronic means and at the Local Board's expense. A copy of the recorded Hearing or Rehearing will be provided to the Claimant and all other interested Parties upon request. Parties are responsible for obtaining their own transcription of a recorded Hearing or Rehearing, although a Local Board may provide such a transcription in its discretion. In addition to any electronic recording of the proceedings, the Local Board shall include all relevant written records as part of the official record of the Hearing or Rehearing.

9. Evidence on Claims. The Claimant and Administrator shall be afforded equal time to state their positions.

10. Subpoenas; Depositions. To facilitate the collection and presentation of evidence with respect to any matter before the Local Board, the Presiding Officer may authorize subpoenas and depositions of witnesses.

11. Consultation Among Members. The Presiding Officer may consult on the record with the other members of the Local Board. The Local Board may consult in executive session with the Local Board's legal counsel so long as all requirements of the Open Meeting Law are satisfied. The Local Board may also go into executive session for any lawful reason, including the need to preserve the confidentiality of medical information. However, all Decisions of the Local Board shall be made in open, public session of the Local Board.

12. Bifurcation of Issues/Hearing. In connection with any Claim, the Presiding Officer is empowered to bifurcate (*i.e.,* separate into two or more) issues presented to the Local Board for resolution, or set multiple Hearings or Rehearings in a single case.

13. Submission of Evidence. The Claimant must submit to the Secretary within ten (10) working days of the Hearing or Rehearing any documents the Claimant wishes to introduce into the record, including doctor reports and other written evidence. Documents received by the Secretary less than ten (10) working days before a Hearing or Rehearing may cause a delay in the Hearing or Rehearing. Information and documents presented on the date of the Hearing or Rehearing will be reason for the Presiding Officer to call for a motion to continue the Hearing or Rehearing to a later date.

14. Public Participation. The Open Meeting Law governs public participation in Hearings and Rehearings.

15. No Rehearing on Remand. A Hearing before the Local Board on a matter remanded from the Yavapai County Superior Court is not subject to a Rehearing before the Local Board. However, the Local Board may consider new evidence or review items remanded by the Yavapai County Superior Court.

The undersigned Chair and Secretary of the Town of Clarkdale Public Safety Personnel Retirement System Pension Board certify that the foregoing Procedures were duly adopted by the Board at a meeting duly called and held on the date specified below.

_____	_____
Chair	Secretary
_____	_____
Dated	Dated

Staff Report

Agenda Item: **SECRET BALLOT RESULTS** – Results of the Secret Ballot election announced.

Meeting Date: February 20, 2013

Prepared By: Mary Ellen Dunn, Local Board Secretary

Background: Following the meeting of September 5, 2012, the Board Secretary distributed ballots to members of the Town of Clarkdale Police Department for the purpose of electing a member to fill the position that will expire September 30, 2012. Robert Church was elected by secret ballot to fill this position and his new term will expire September 30, 2014.

Recommendation: No Board action is required.

Staff Report

Agenda Item: **ACCEPTANCE OF OFFICER PRE-EMPLOYMENT PHYSICALS** – Current officers' pre-employment physicals must be accepted as a group or individually.

Meeting Date: February 20, 2013

Prepared By: Mary Ellen Dunn, Secretary

Background: The State Board of Trustees requires that each officer have a pre-employment physical. The physician's report must be reviewed for findings of pre-existing conditions. In this review, any pre-existing conditions must be noted for the record and procedures required by the Board By-Laws and Arizona statutes followed. It appears that these reviews have not been done for the current officers and the State Board has recommended that the Local Board implement one of two remedies:

1) Each current officer's pre-employment physical can be reviewed and accepted individually, in Executive Session, noting any specific pre-existing conditions; or

2) The Board will designate a representative(s) to review the officers' pre-employment physicals. The representative(s) will note in general terms whether there were pre-existing conditions and present to the Board for discussion and vote. This option does not necessitate Executive Session as the reports are discussed in general terms.

Recommendation: It is recommended that the Board designate a representative(s) to review the officer's pre-employment physicals and report the results to the Board for discussion and vote.

Staff Report

Agenda Item: **APPOINTMENT OF REPRESENTATIVE(S) TO REVIEW OFFICER PRE-EMPLOYMENT PHYSICALS –** Consideration and discussion of option of selecting representative(s) to review officer pre-employment physicals.

Meeting Date: February 20, 2013

Prepared By: Mary Ellen Dunn, Local Board Secretary

Background: Prior to beginning employment for the Town of Clarkdale Police Department, officers are required to have a physical which informs the Town of an applicant's ability to serve as a police officer. If a pre-existing condition is noted by the physician it must be noted for the purpose of determining future disability eligibility.

Pursuant to direction given by the State office, the Board could:

1) evaluate each physical in Executive Session, note pre-existing condition or no pre-existing condition, and approve the application for membership; or
2) select a representative(s) to review each physical, who will note pre-existing condition or no pre-existing condition and bring general information to the Board for approval in a Regular Meeting.

Recommendation: It is recommended that the Board select a representative(s) to review each physical, who will note pre-existing condition or no pre-existing condition and bring general information to the Board for approval in a Regular Meeting.