

AGENDA TITLE:

Adopt a Resolution of the City Council of the City of Sausalito Determining that Donald MacQuarrie is Incapacitated within the Meaning of the Public Employees' Retirement Law

RECOMMENDED MOTION:

Adopt a Resolution of the City Council of the City of Sausalito Determining that Donald MacQuarrie is Incapacitated within the Meaning of the Public Employees' Retirement Law

SUMMARY

Over the thirty(+) years of service with the City of Sausalito, Captain Donald MacQuarrie has incurred work related injuries during the course of performing his assigned duties. As a result of these injuries, Captain MacQuarrie filed workers' compensation claims. Due to the ongoing problems resulting from the injury and the most recent medical evaluation of his physical status resulting from the injuries, Captain MacQuarrie has filed an industrial disability application with the California Public Employees' Retirement System (CalPERS). Staff has accepted the validity of this industrial disability retirement claim and brings to Council a draft resolution containing the findings required by CalPERS in order for the retirement application to be processed.

BACKGROUND

Due to the nature of the injuries and resulting physical condition caused by Captain MacQuarrie's industrial accidents, Captain MacQuarrie's personal physician has declared that he is unable to perform all the duties of his job as a Police Captain.

As a result of this most recent determination that Captain MacQuarries has reached maximum medical improvement, Captain MacQuarrie initiated an industrial disability retirement application with the California Public Employees' Retirement System (CalPERS) on March 4, 2009. To complete the requirements of the retirement process, CalPERs requires that the City Council take official action through adoption of a resolution making findings, that Captain MacQuarrie is incapacitated within the meaning of the Public Employees' Retirement Law.

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Staff continues to work with representatives of Innovative Claims Solutions (ICS), the Third Party Administrator of the City's workers' compensation program, on the related open workers' compensation claims.

FISCAL IMPACT

Captain MacQuarrie is at a point where he could be taking a regular service retirement. As such, Captain MacQuarrie's retirement pension would be paid by CalPERS, regardless. Since the application for the industrial disability retirement comes at the same time as a service retirement, the City will incur no additional costs.

The Police Department has already begun the recruitment process to replace Captain MacQuarrie.

STAFF RECOMMENDATIONS

Staff recommends that the City Council adopt the resolution determining that Donald MacQuarrie is incapacitated within the meaning of the Public Employees' Retirement Law.

ATTACHMENTS

City Manager

Resolution determining that Donald MacQuarrie is incapacitated within the meaning of the Public Employees' Retirement Law.

PREPARED BY:	REVIEWED BY:
Debbie Pagliaro Deputy City Clerk	Mary Anne Wagner City Attorney
SUBMITTED BY: Adam W. Politzer	

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO, CALIFORNIA DETERMINING THAT DONALD MACQUARRIE IS INCAPACITATED WITHIN THE MEANING OF THE PUBLIC EMPLOYEES' RETIREMENT LAW

WHEREAS, the City of Sausalito (herein 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 in employment in which he/she is 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 Donald MacQuarrie employed by the Agency in the position of Police Captain has been filed with the Public Employees' Retirement System; and

WHEREAS, the City of Sausalito has reviewed the medical and other evidence relevant to such disability.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sausalito does hereby find and determine that Donald MacQuarrie is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his duties in the position of Police Captain; and

BE IT FURTHER RESOLVED that the City Council of the City of Sausalito does hereby find and determine that such disability is a result of injury(ies) arising out of and in the course of employment.

BE IT FURTHER RESOLVED that a petition will be filed with the Workers' Compensation Appeals Board for a determination pursuant to Section 21166, Government Code; and a copy of such determination will be provided when rendered.

BE IT FURTHER RESOLVED that the member will be separated from his employment in the position of Police Captain after expiration of his rights under Section 21164, Government Code, effective such date that CalPERS determines that he is qualified for the industrial disability retirement and that no dispute as to the expiration of such leave rights is pending. His last day on regular pay status will be June 27, 2009. Advanced Disability Pension

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BE IT FURTHER RESOLVED that the City Council does hereby find and determine that there is not a possibility of third party liability.

BE IT FURTHER RESOLVED that the City Council does hereby accept the expert medical report that the primary disabling conditions are due injury to his neck, left shoulder and left hand carpal tunnel findings.

PASSED AND ADOPTED Sausalito on the day of	at a regular meeting of the City Council of the City of, 2009, by the following vote:
AYES: Councilmembers: NOES: Councilmembers: ABSENT: Councilmembers: ABSTAIN: Councilmembers:	
A CONTROL OF	MAYOR OF THE CITY OF SAUSALITO
ATTEST: DEPUTY CITY CLERK	