

RESOLUTION NO. 6305-2020

A RESOLUTION DESIGNATING THE AUTHORITY AND UPDATING THE PROCESS AND PROCEDURES IN THE DETERMINATION OF DISABILITY RETIREMENTS FOR EMPLOYEES

WHEREAS, the City of Sebastopol is a contracting agency of the California Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement Law ("PERL") requires that a contracting local government agency determine (a) whether an employee of such agency in which he/she is classified as a "local safety member" is disabled for purposes of the Public Employees' Retirement Law and (b) whether such disability is "industrial" within the meaning of the PERL;

WHEREAS, the City Council of the City of Sebastopol may delegate responsibility and authority under section 21173 of the Government Code to a body or officer of the City.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Sebastopol as set forth:

Section 1. The City Council hereby delegates to the City Manager or their designee the authority to file disability applications on behalf of all employees pursuant to Government Code section 211753;

Section 2. The City of Sebastopol does hereby delegate to the City Manager or his/her designee, the authority to make any and all determinations on behalf of the City of Sebastopol under section 21152(c) of the Government Code, as it may from time to time be amended, of the existence of a disability and whether such disability is industrial, and to certify such determinations and all other necessary information to the California Public Employees' Retirement System; and

Section 3. That the City Manager or his/her designee is authorized to make applications on behalf of the City of Sebastopol for disability retirement on behalf of eligible employees and to initiate requests for reinstatement of such employees who have previously been retired for disability; and

Section 4. A certified copy of this Resolution must be placed on file with the California Public Employees Retirement System or must accompany all such resolutions or letters of designation signed by the delegate named in this resolution and be included as part of the submission to the California Public Employees Retirement System;

Section 5. The City of Sebastopol hereby adopts the following procedures for processing applications of local safety members for disability retirement:

(1) Verification of CalPERS determination of member eligibility

Upon receipt of verification from the California Public Employees Retirement System that the member is eligible to apply for disability retirement, the City Manager will proceed with determination.

(2) Contingencies Completed

An initial determination will begin after determination that the following conditions have been met:

- 4850 payments have been exhausted
- Employee has exhausted all leave balances
- OR Employee has filed for disability retirement

(3) Promissory Note

In the event applicant becomes eligible for Advanced Disability Pension Payments. Applicant must sign a promissory note agreeing to repay and Advance disability Pension Payments made by the City should the applicant later be deemed ineligible for retirement.

(4) Determination of Disability

An initial determination will be made by the City upon medical and other available evidence offered by either the applicant or the City to determine whether the applicant is substantially incapacitated from the performance of his or her duties. The determination shall be made within six months of the date of the City 's receipt of CalPERS request for such determination unless this time requirement is waived in writing by the applicant. The City Manager or his/her designee shall certify the City 's findings and direct them to CalPERS.

A resolution determination for disability retirement will include all the following information statements:

- A statement certifying under penalty of perjury that the determination was not used as a substitute for the disciplinary process.
- A statement certifying under penalty of perjury that the determination was made based on competent medical opinion.
- A finding indicating the member has been found substantially incapacitated from the performance of the usual duties of his/her position.
- A statement that there is competent medical opinion certifying the disability is expected to a) be permanent; b) last at least twelve consecutive months from the date of an application for benefit; c) will result in death.
- A statement confirming whether or not the member had filed a workers compensation claim(s) for his or her disabling conditions(s) and if so, whether the claim was accepted.
- A finding by the employer as to whether the causation of the disability was industrial.
- A statement by the employer documenting the member's last day on payroll.
- A statement by the employer as to whether there is, or is not, a possibility of third-party liability present.
- The monthly amount and beginning date of Advance Disability Pension Payments (ADPP) paid or to be paid to the member along with the address where the reimbursement check should be mailed.
- A certified copy of this signed resolution must accompany the determination resolution.

(5) Appeal Process

If the applicant requests a hearing pursuant to the PERL, the hearing shall be held in conformity with Government Code section 21156, as it may from time to time be amended.

Once the City issues its decision following a hearing, the decision and findings will be served on the applicant by certified mail and CalPERS will be notified.

If applicant is found to be substantially incapacitated the city shall so certify to CalPERS. If applicant is found not to be substantially incapacitated the applicant will be further advised that he or she has thirty calendar days to seek judicial review, not including prospective or prophylactic restrictions as defined by CalPERS guidance on disability retirement and in CA Government Code Section 21166 which excludes any determination of disability under Labor Code 4600, 5811 or any other provision of the Labor Code.

IN COUNCIL DULY PASSED this 21st day of July 2020.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council by the following vote:

VOTE:

AYES: Councilmembers Carnacchi, Gurney, Hinton, Vice Mayor Glass and Mayor Slayter
NOES: None
ABSTAIN: None
ABSENT: None



APPROVED: _____
Mayor Patrick Slayter



ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC



APPROVED AS TO FORM: _____
Larry McLaughlin, City Manager/Attorney