

RESOLUTION NO. 3353

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
SAN ANSELMO ESTABLISHING A PROCEDURE FOR INDUSTRIAL DISABILITY
RETIREMENT DETERMINATIONS OF LOCAL SAFETY OFFICER EMPLOYEES OF
THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BE IT HEREBY RESOLVED by the Town Council of the Town of San Anselmo that following the filing of an application for industrial disability retirement by a local Safety Officer under the California Public Employees' Retirement System the following procedures shall be employed:

1. An initial determination will be made by the Town upon medical and other available evidence offered by either the applicant or by Town to determine whether the applicant is incapacitated from the performance of duty. The determination shall be made within six months of the date of receipt by the Town from CalPERS of an application for disability retirement, unless this time requirement is waived in writing by the applicant. Said determination shall be made by the San Anselmo Town Council.

- a. If it is determined by the Town Council that the applicant is incapacitated and the incapacity is industrial, the Town Administrator will so certify to CalPERS.
- b. If it is determined by the Town Council that the applicant is incapacitated but that the cause of incapacity is nonindustrial, the Town Administrator will so certify to CalPERS.
- c. If it is determined that the applicant is incapacitated but not due to industrial causes and the applicant contends that the cause of disability is industrial, he/she may petition the Workers' Compensation Appeals Board (WCAB) for a Finding of Fact determining causation. If the WCAB determines the cause of incapacity to be industrial or nonindustrial, the Town Administrator will so certify to CalPERS.
- d. If the Town Council determines that the applicant is not incapacitated from the performance of duty, the Town Administrator shall notify the applicant and CalPERS in writing of this determination. The Town Administrator shall further notify the applicant by registered mail (return receipt requested) or by personal service of his/her right to appeal the Town Council's decision and to request in writing a hearing within thirty calendar days of the notice.

2. If the applicant requests a hearing, the hearing shall be held in conformity with the California Administrative Procedures Act. When an applicant requests a hearing, the Town Administrator will notify CalPERS. The Town Administrator will also notify the Office of Administrative Hearings and request a hearing date and a prehearing conference with an Administrative Law Judge. The Office of Administrative Hearings will set a hearing date and prehearing conference, and the Town Administrator will inform the applicant in writing that the hearing will be held at the time and place designated by the Office of Administrative Hearings.

- a. The hearing shall be conducted before the Town Council with the Administrative Law Judge acting as the presiding officer, and an administrative record shall be generated at the hearing pursuant to the Administrative Procedures Act (§11512 (d)). Following the hearing, a decision and findings of fact shall be made in writing by the Town Council, such decision and findings shall be served on the applicant by registered mail (return receipt requested) or by personal service. The Town Administrator will notify CalPERS of the Town Council's decision and findings.
- b. If the applicant is found to be incapacitated, the Town Administrator will so certify to CalPERS. If the applicant is found not to be incapacitated, the applicant shall be further advised in writing by the Town Administrator that he/she has thirty calendar days to seek judicial review. Such review is by means of filing a Petition for Writ of Mandate in the Superior Court of the County of Marin. Upon receipt of notice that the applicant has filed a Petition for Writ of Mandate in the Superior Court of the County of Marin, or upon expiration of thirty calendar days where applicant has not filed a Petition for Writ of Mandate, CalPERS will be notified by the Town Administrator. Upon the Town's receipt of Writ of Mandate in the Superior Court of the County of Marin, CalPERS will be notified by the Town Administrator.

I hereby certify that the foregoing Resolution was duly passed and adopted at a regular meeting of the San Anselmo Town Council held on the 23rd day of July, 1996, by the following vote, to wit:

AYES: Breen, Chignell, Hodgens, Kroot, Yarish

NOES: (None)

ABSENT: (None)

ATTEST:

Debra Stutsman
TOWN CLERK