



MARIPOSA COUNTY

Human Resources/Risk Management • (209) 966-3222



RESOLUTION - ACTION REQUESTED 2014-480

MEETING: September 16, 2014

TO: The Board of Supervisors **MINUTE ORDER ATTACHED**

FROM: Steve Dahlem, County Counsel/Interim HR Director-Risk Manager

RE: Approval of Industrial Disability Retirement for Lisa M. Sullivan

RECOMMENDATION AND JUSTIFICATION:

Approve a Resolution certifying the Industrial Disability Retirement of Sheriff's Deputy Lisa M. Sullivan effective August 16, 2014. Deputy Sullivan's separation date was August 15, 2014. A determination has been made that Deputy Sullivan is incapacitated within the meaning of CalPERS law for the performance of her duties in the position of Sheriff's Deputy. It has been further determined that the disability arises out of and in the scope of her employment. As a safety employee, CalPERS requires that the governing board, i.e., the Board of Supervisors, adopt a Resolution relative to the approval or denial of an industrial disability retirement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has previously adopted similar Resolutions relative to industrial disability retirements for safety employees.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

An alternative action would be to determine that Deputy Sullivan is not entitled to an industrial disability retirement, however, this determination would not be supported by the medical evidence.

FINANCIAL IMPACT:

None on this action.

ATTACHMENTS:

Sullivan Industrial Disability Retirement Res (PDF)
Facebook page of Lisa Sullivan (PDF)

CAO RECOMMENDATION

Mary Hodson

Mary Hodson, Interim CAO 9/11/2014

Resolution - Action Requested 2014-480

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Lee Stetson, District I Supervisor

SECONDER: John Carrier, District V Supervisor

AYES: Stetson, Jones, Bibby, Cann, Carrier

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF MARIPOSA
Government Code Section 21156**

RESOLUTION NO. 14-480

WHEREAS, the County of Mariposa (hereinafter referred to as Agency) is a contracting agency of the California Public Employees' Retirement System;

WHEREAS, the California Public Employee's Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which she is classified as a local safety member is disabled for purposes of the California Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such Law; and

WHEREAS, an application for industrial disability retirement of Lisa M. Sullivan employed by the Agency in the position of Sheriff's Deputy has been filed with the California Public Employees' Retirement System; and

WHEREAS, the Board of Supervisors has reviewed the medical and other evidence relevant to such alleged disability; and

NOW. THEREFORE, BE IT RESOLVED, that the Board of Supervisors finds and determines and it does hereby find and determine that Lisa M. Sullivan is incapacitated within the meaning of the California Public Employees' Retirement Law for performance of her duties in the position of Sheriff's Deputy; and

BE IT FURTHER RESOLVED that the Board of Supervisors finds and determines and it does hereby find and determine that such disability is a result of injury or disease arising out of and in the course of employment. Neither said Lisa M. Sullivan nor the agency County of Mariposa has applied to the Workers' Compensation Appeals Board for a determination pursuant to Section 21166 whether such disability is industrial.

BE IT FURTHER RESOLVED that the member was separated from her employment in the position of Sheriff's Deputy, after expiration of her leave rights under Government Code Section 21164, effective August 15, 2014 and that no dispute as to the expiration of such leave rights is pending. Her last day on pay status was August 15, 2014. Her first date of retirement was August 16, 2014.

There is not a possibility of third party liability.

Advanced Disability Pension payments will not be made.

The primary disabling condition is orthopedic.


PASSED AND ADOPTED by the Mariposa County Board of Supervisors this 16th day of September 2014 by the following vote:

AYES: STETSON, JONES, BIBBY, CANN, CARRIER

NOES: NONE

ABSENT: NONE


ABSTAINED: NONE



Kevin Cann, Chair
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:



René LaRoche, Clerk of the Board



Steven W. Dahlem, County Counsel



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR
MERLIN JONES, VICE-CHAIR
LEE STETSON
JANET BIBBY
JOHN CARRIER

DISTRICT IV
DISTRICT II
DISTRICT I
DISTRICT III
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: STEVEN W. DAHLEM, County Counsel/Interim HR Director-Risk Manager
FROM: RENE' LaROCHE, Clerk of the Board *RL*
SUBJECT: Approve a Resolution Certifying the Industrial Disability Retirement of Sheriff's Deputy
Lisa M. Sullivan Effective August 16, 2014

RES. 14-480

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on September 16, 2014

ACTION AND VOTE:

CA10. Human Resources/Risk Management RES-2014-480

Approve a Resolution Certifying the Industrial Disability Retirement of Sheriff's
Deputy Lisa M. Sullivan Effective August 16, 2014

Supervisor Bibby noted that CA10 has to do with California Public Employees Retirement law and the finding that the individual member is disabled under those laws; noted that, after having read the law, she is having a difficult time making that Finding when the employee stated in a Facebook post that she moved 9,430 pounds of hay single-handed in the heat; remarked that a Finding of Industrial Retired would mean that she is no longer able to perform tasks as a deputy, and discussed her difficulty with that Finding given that Facebook post; remarked that a person able to move that much hay ought to be able to perform some position somewhere in the County; and requested that the Facebook post be made part of the record and provided to PERS as a Minute Order attached to the resolution. Steven W. Dahlem/County Counsel clarified that these issues were looked at in the process; noted that the Facebook post was made available to our workers comp attorney prior to the former employee being deposed; and he requested Sandra Laird to provide some background on the issue. Sandra Laird/Administrative Analyst noted that the employee was deposed, and our attorney was satisfied; and remarked that questions were asked of the employee relative to the Facebook posting, and she responded in such a way that the attorney felt it wasn't going to pose an issue. Supervisor Bibby stated that she didn't think that the attorney knew what was involved in moving that amount of hay. Ms. Laird responded to Supervisor Bibby's earlier comment regarding placing the employee in some other position in the County by noting that prior to this process, they had to go through the disability interactive process in which they look at existing classifications in an attempt to identify if there are any other positions where they might be able to place this individual with reasonable accommodations. She noted that there were other

positions, one was a bailiff, but it was determined that because of the typical physical requirements of that position, the County would not be able to reasonably accommodate her in that classification; remarked that at the time there were other types of jobs that were open but, again, she either did not qualify or they weren't able to reasonably accommodate her in those positions. Ms. Laird also noted that for safety employees, the Board needs to make the decision regarding whether this employee is disabled within the meaning of PERS law, unlike miscellaneous employees for whom PERS makes the decision; and affirmed that a Minute Order can be sent along with a resolution.

Supervisor Cann required clarification of what PERS can do if they are not making the decision; and remarked that his understanding is not whether the person can lift hay but, rather, whether she can do the full job of a deputy sheriff. Ms. Laird affirmed noting that it is not that the person cannot do any job, but that she can't function in the capacity of a sheriff's deputy; and she discussed some of the physical tasks that might be required. Supervisor Cann inquired as to the options and ramifications. Ms. Laird responded that the Board's options are either to approve the Industrial Disability or not approve it, but that litigation is a potential consequence should the Board choose not to approve. Supervisor Cann required clarification that the County's workers comp legal consultants are recommending approval. Ms. Laird responded by noting that the worker's comp part is separate from this employment aspect; stated that our attorney was satisfied with the way this individual responded to the questions; and noted that the consideration relative to the employment portion is whether we can allow this person to return to her job as a Sheriff's Deputy.

Supervisor Jones remarked that sometimes we come across cases where we may not really agree, but a solution is chosen because of the risk factor.

Supervisor Bibby reiterated the request to submit this discussion to PERS; noted that we have had other employees who are still out and performing their tasks; discussed the Facebook post; and cautioned employees to exercise care with internet postings.

Supervisor Cann inquired as to what would happen if a suitable job was found a year from now. Ms. Laird noted that, under PERS law, the individual has to be disabled within a six month period of time in order to make the Industrially Disabled determination; and noted that this person has been off work for some time now and has not gotten better. Supervisor Cann remarked that the disability has not yet been determined. Ms. Laird discussed the complexity of determining a permanent disability rating. Supervisor Cann inquired if PERS has been involved in this issue to this point. Ms. Laird responded that PERS has corresponded with the former employee, and has sent copies to us; and noted that she will forward this resolution to PERS, who will then review it and send correspondence to the individual, and then it goes forward from that point.

Supervisor Bibby noted that the employee has been off for some time, and required clarification that they moved the hay when they were off on disability. Ms. Laird affirmed; and urged caution in open session discussions, and deferred to County Counsel for guidance on the conversation. Supervisor Bibby indicated that she was finished.

Chair Cann noted that the Board is in agreement with the request to attach the Facebook post and a Minute Order to the item when it is approved.

1) Attachment
cc: Bill Davis, Auditor

Lisa M. Sullivan

Lisa M. Sullivan Timeline 2013 Highlights

Friends 2023



Likes 2023



+32

Erinny Scifan Friends of Simon Glass and Yosemite Search

EVENTS 2013

Civil War Days-Duncans Mills 1976-19 other guests

A Gathering of Pagan Folk Labor day weekend 1976-198 other guests

Timeline 2013

Lisa M. Sullivan September 27, 2013

All right, I have to brag...After getting our squeeze of hay delivered, I proceeded to move the 15' high stack of hay, consisting of 82 bales weighing a grand total of 9,430 lbs into our hay barn all by myself AND during a heatwave! Which goes to prove.....I'm stupid.



Like Comment Share

23 26

Lisa M. Sullivan September 1, 2013

Happy Anniversary to my wonderful parents! They celebrated it by going to The Eagles' concert last night! Not bad for my parents being in their 70's and 80's. I guess you could say they can 'Take it to the limit, one more time'!

