

## CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. \_\_\_\_\_ File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

**Agenda Item No.:** 8

**Date:** August 8, 2012

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sheryl Bennett, Director of Human Resources  
Cindy Titgen, Benefits and Workers' Compensation Manager

**SUBJECT:** Approval of CalPERS Industrial Disability Retirement for Leonardo Maniscalco

**RECOMMENDATION:**

It is requested that Council adopt Resolution No. 2012-137 – approving the California Public Employees' Retirement System (CalPERS) Industrial Disability Retirement for Fire Captain Leonardo Maniscalco.

**BACKGROUND:**

Mr. Maniscalco is a 51-year old male Fire Captain. He has been employed by the City of Escondido for over 27 years. He service retired on May 27, 2012, pending Industrial Disability Retirement. The basis for Mr. Maniscalco's Industrial Disability Retirement application is confirmed by medical reports from Dr. L. Mercer McKinley and his condition is orthopedic in nature. Accordingly, Mr. Maniscalco is incapacitated within the meaning of the Public Employees' Retirement Law for the performance of his usual and customary duties in the position of Fire Captain.

Under State Law, the City Council is required to adopt a Resolution determining that competent medical evidence supports the granting of an Industrial Disability Retirement. Based on medical evidence, staff recommends the City Council adopt Resolution No. 2012-137 approving the CalPERS Industrial Disability Retirement, for Leonardo Maniscalco to be effective May 27, 2012.

Respectfully submitted,



Cindy Titgen

Benefits and Workers' Compensation Manager



Sheryl Bennett  
Human Resources Director

RESOLUTION NO. 2012-137

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
APPROVING THE CALPERS INDUSTRIAL  
DISABILITY RETIREMENT FOR LEONARDO  
MANISCALCO

WHEREAS, the City of Escondido (hereinafter referred to as "Agency") is a contracting agency of the California Public Employees' Retirement System (CalPERS); and

WHEREAS, the California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he 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 Industrial Disability Retirement of Leonardo Maniscalco employed by the Agency in the position of Fire Captain has been filed with CalPERS; and

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, as follows:

1. That the above recitations are true.
2. That the City Council of the City of Escondido does find and determine that Leonardo Maniscalco is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his usual duties in the position of Fire Captain.

3. That the City Council of the City of Escondido does find and determine that such disability is a result of injury or disease arising out of and in the course of employment.

4. That neither Leonardo Maniscalco nor the Agency, has applied to the Workers' Compensation Appeals Board for a determination pursuant to Section 21166 whether such disability is industrial.

5. That there is not a possibility of third party liability.

6. That the service member did service retire on May 27, 2012, pending approval of Industrial Disability Retirement and no dispute exists with regards to the retirement date. Mr. Maniscalco's last day on pay status was May 26, 2012.

7. That advanced permanent disability payments will not be made.

8. That the City Council of the City of Escondido finds that the primary disability is orthopedic.