

Public Safety Memorial Fund Board

Minutes

June 17, 2024

The Public Safety Memorial Fund Board held a special meeting on June 17, 2024, at the Department of Public Safety Standards and Training located at 4190 Aumsville Hwy SE Salem, Oregon. The meeting was called to order at 11:00 a.m.

Committee Members:

DaNeshia Barrett, Chair, Law Enforcement Representative
Maria Caballero Rubio, Public Member
Jennifer Cameron, Vice-Chair, Corrections Representative
Matthew English, Corrections Representative
Chris Heppel, Fire Representative
Scotty Nowning, Law Enforcement Representative

Committee Members Absent:

No members were absent

DPSST Staff:

Kayla Ballrot, Fire Training Program Manager
Brooke Bell-Uribe, Fire Training Compliance Specialist
Jennifer Howald, Administrative Rules Coordinator
Kathy McAlpine, Professional Standards Division Director
Shelby Wright, Executive Assistant to the Director

Guests

No guests attended this meeting

1. Introductions

- *Chair, DaNeshia Barret, began the meeting by introducing herself and invited everyone in attendance to state their name and position for the record.*

2. *Nicholas Berg (DPSST #16489) – Mist-Birkenfield Rural District Fire Protection District; Initial Application for Benefits

Presented by Kathy McAlpine

On June 10, 2024, the Public Safety Memorial Fund Board (Board) met to discuss Lea Ann Berg's initial application for benefits. After lengthy deliberation, the Board determined that the cause of death was unclear and therefore could not determine Chief Berg's death to be qualifying as defined by ORS 243.954. The Board deferred to DPSST Staff to gather further information and return their findings back to the Board for final determination.

On June 5, 2024 at 9:30am, Division Chief Nicholas Berg came into the station to discuss and assist management staff with a lawsuit that the Mist-Birkenfield RFPD is currently associated

with. During Chief Berg's time at the station, he went through legal paperwork as well as an official fire investigative report associated with the respective lawsuit until approximately 11:00am. At this time, Chief Berg mentioned that he had felt more stressed going through this process than he felt during his 47 years of fire service.

After Chief Berg had concluded at the main station, he departed and went down to the drill site to prepare the area for a regularly scheduled drill at 7:00pm. The preparation for the training included Chief Berg walking the area to find optimal draft sites along with utilizing a riding lawnmower to mow about 1.5 acres of land. During the training event, Chief Berg assisted several groups in moving two sections of 50lb hard-suction equipment, attaching the hose to the engine, and then helping the group place the hose into the water.

At approximately 5:30pm, Mist-Birkenfield RFPD was dispatched to assist Vernonia Rule Fire Protection District with searching for a missing and injured bicyclist. Chief Berg responded to the main station at approximately 6:02pm, where he had assisted loading the UTV and the Kubota UTV onto the trailer. At about 6:21pm, the cyclist had been found and Chief Berg was called off. The regularly scheduled training event began around 7:00pm that night and concluded at 10:30pm. At approximately 6:30am the next morning, Chief Berg had awoken his wife Lea Anne Berg due to her snoring, prompting her to get up for the day.

Approximately 15 minutes later, Mrs. Berg became concerned that her husband had not gotten out of bed -- prompting her to check on him -- when she noticed that he was not breathing. Upon examining for a pulse, Mrs. Berg determined that there was none. At 6:46am that morning, 911 was called and Mist-Birkenfield RFPD was toned to a cardiac arrest at Chief Berg's residence. Lifesaving efforts were attempted but not successful.

The information contained herein is a continuation of the preceding Public Safety Memorial Board Meeting (06/10/2024) supplemented by Mist-Birkenfield Rule Fire Protection District. Chief Berg's death certificate lists coronary artery disease, arterial fibrillation, and hyperlipidemia as contributing factors in his passing.

The action items in question are to determine if Chief Nicholas Berg met the statutory definition of a public safety officer for the sake of the Public Safety Memorial Fund Statue, whether his untimely passing qualifies under the criteria, and whether Leanne Berg is an eligible beneficiary for the lump-sum amount of \$25,000 that would be awarded by the board.

3. Action Items

Presented by DaNeshia Barrett

1. Determine if Chief Nicholas Berg met the statutory definition of a Public Safety Officer under Public Safety Memorial Fund Board (PSMFB) statue.
 - o *Matthew English motioned to designate Chief Berg as a qualifying Public Safety Officer as defined by ORS 243.954. The motion was seconded by Scotty Nowning. A vote was taken by roll call whereby the motion passed unanimously.*

2. Determine if the death of Nicholas Berg is a qualifying death as set forth in ORS 243.954.

Chair Barrett asked DPSST whether the PSMFB previously approved and awarded monetary benefits for a similar case that took place 2021. Shelby Wright clarified that the \$25,000 benefit was approved then by the PSMFB. Matthew English remarked on the utility of the historical context and information provided to understand that Chief Berg was engaged in department approved activities and training during the preceding 24 hours. Jennifer Cameron reiterated the clarity of information procured on behalf of meeting members.

Chair Barrett proposed another question: “24 hour qualifying language appears to be the federal standard, is that also the state standard as well? Or has this group always gone side-by-side with that national language with fire only?” Jennifer Howald replied, “The statute that defines the Public Safety Memorial Fund and its qualifications does not include any further definition of direct or proximate, and our rules do not include any further definition of direct or proximate. I think that because there is a national standard available, it’s probably been referenced several times but it’s not something that in the state of Oregon is held to follow.”

Brooke Bell-Urbe mentions, “going back to the history of the Fallen Firefighter Memorial and its relation to this, we found some historical information that they decided to follow the national criteria to include people on the wall, which the public safety officers’ federal benefit uses as well for their purposes. I think because we don’t have the line of duties going before the board, they just decided to go before this national standard. It just doesn’t look like we’ve had too many unclear cases quite yet, so this one was a little bit more where it wasn’t quite as clear cut-and-dry than it was the line of duty death where that 24 hours came into play.”

Scotty Nowning opined, “I think it’s important that we follow some standard so that we can show some consistency, so I feel very comfortable following that standard...”. Chair Barrett expressed the same sentiment.

- *Scotty Nowning motioned to approve Chief Berg’s death as qualifying under ORS 243.954. Matthew English seconded the motion. A vote in favor of passing the motion was reached unanimously.*

3. Determine if Lea Ann Berg is the Eligible Beneficiary for the Public Safety Memorial Fund Benefits

Matthew English initiated the motion to consider Lea Anne Berg a valid beneficiary by commenting: “Based on the marriage certificate submitted, I would say that Lea Ann Berg is an eligible beneficiary for purposes of the Public Safety Memorial Fund benefits.”

- *Matthew English motioned to confirm Lea Ann Berg as an eligible beneficiary for PSMFB benefits. Vice-Chair Cameron seconded the motion. A vote was again cast with unanimous agreement.*
4. Determine if the Board will award the lump sum benefit in the amount of \$25,000 to Lea Ann Berg
- *Chris Heppel moved to award the full amount of \$25,000 to Lea Ann Berg. This was seconded by Matthew English. A unanimous consensus was again reached through a roll-call vote.*

Professional Standards Division Director, Kathy McAlpine closed the meeting by noting that DPSST staff will work to curate a check and see that the benefits are provided to the beneficiary as quickly as possible.

4. Next Meeting – July 25, 2024

With no further items to discuss, Chair Barrett adjourned the meeting at approximately 11:16am.