

RESOLUTION NO. 11/2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA, DETERMINING THE INDUSTRIAL DISABILITY OF EMPLOYEE ROGER BENZ, PER GOVERNMENT CODE SECTION 21156

WHEREAS, the Town of Corte Madera (hereinafter referred to as Agency) is a contracting agency of the Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he/she 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 disability retirement of Roger Benz employed by the Agency in the position of Fire Captain/Paramedic has been filed with the Public Employees' Retirement System; and

WHEREAS, the Town of Corte Madera has reviewed the medical and other evidence relevant to such alleged disability;

NOW, THEREFORE, BE IT FURTHER RESOLVED: That the Town Council of the Town of Corte Madera does hereby find and determine that Roger Benz is substantially incapacitated within the meaning of the Public Employee's Retirement Law for performance of his usual duties in the position of Fire Captain/Paramedic; and hereby find and determine that Roger Benz is incapacitated for performance of the duties of the position for other California public agencies in CalPERS. Similar positions with reasonably comparable pay, benefits and promotional opportunities with other California public agencies are not available;

On January 19, 2017, the Workers' Compensation Appeals Board approved a Joint Order approving the agreed upon compromise and release agreement between the Town of Corte Madera and Roger Benz;

BE IT FURTHER RESOLVED: That the Town Council 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 employee Roger Benz nor the Town of Corte Madera has applied to the Workers' Compensation Appeals Board for a determination pursuant to Government Code Section 21164 whether such disability is industrial;

BE IT FURTHER RESOLVED: That the member was separated from his employment in the position of Fire Captain/Paramedic after the expiration of his rights under section 21164, Government Code, effective December 28, 2016 and that no dispute as to the expiration of such leave rights is pending;

There is not a possibility of third party liability;

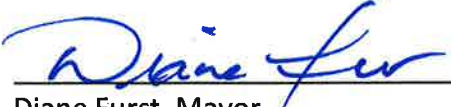
The primary disabling condition is Pulmonary Embolism/Cardiovascular.

IT IS HEREBY CERTIFIED that the foregoing resolution was duly introduced and adopted at a regular meeting of the Corte Madera Town Council held on the 21th day of February, 2017, by the following vote, to wit:

AYES: COUNCILMEMBERS: Andrews, Bailey, Condon, Furst, Ravasio

NOES: COUNCILMEMBERS: - None -

ABSENT: COUNCILMEMBERS: - None -



Diane Furst, Mayor

ATTEST:



Rebecca Vaughn, Town Clerk