



AGENDA
VILLAGE OF ROSELLE
VILLAGE BOARD COMMITTEE OF THE WHOLE
November 13, 2017
Following Village Board Meeting

Meeting Chaired by Mayor Andy Maglio

1. Roll Call

2. Approval of Prepared Agenda

3. Citizen Comments/Questions

Residents who wish to address the Board, please come to the podium, state your name and address, and limit your comments to three minutes.

4. Public Safety Employee Benefits Act (PSEBA) Administrative Procedures Ordinance

Documents:

[PUBLIC SAFETY EMPLOYEE BENEFITS ACT.PDF](#)

5. FY 2018 Proposed Budget Presentation

[2018 PROPOSED BUDGET DOCUMENT](#)

6. Citizen Comments/Questions

Residents who wish to address the Board, please come to the podium, state your name and address, and limit your comments to three minutes.

7. Other Business

8. Executive Session

- A. Executive Session Minutes
- B. Collective Bargaining
- C. Litigation
- D. Personnel
- E. Real Property
- F. Security Procedures
- G. Risk Management

9. Adjourn

In compliance with the Americans with Disabilities Act, any person with a disability requiring a

reasonable accommodation to participate in the meeting should contact Jason Bielawski, ADA Compliance Officer, 8:30 a.m. to 5:00 p.m. Monday through Friday, telephone: 630-671-2810, email jbielawski@roselle.il.us.

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AGENDA ITEM # 4

**AGENDA ITEM EXECUTIVE SUMMARY
Committee of the Whole Meeting
November 13, 2017**

Item Title: **Public Safety Employee Benefits Act (PSEBA) Administrative Procedures Ordinance**

Staff Contact: Jason M. Bielawski, Assistant Village Administrator

COMMITTEE OF THE WHOLE ACTION

Recommend approval of an ordinance that establishes an administrative procedure for PSEBA claims.
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Executive Summary:

The Public Safety Employee Benefit Act (PSEBA) was enacted into state law in 1997 requiring public employers to provide health insurance benefits to any full-time law enforcement or firefighter who suffers a catastrophic injury or is killed in the line of duty. The employer is required to pay the entire premium of the employer’s health insurance plan for the employee, the employee’s spouse, and for each dependent child under the age of 25.

In order to be eligible for PSEBA benefits, the employee must have suffered the catastrophic injury or is killed in the line of duty as a result of the police officer’s response to fresh pursuit, the officer’s or firefighter’s response to what is reasonably believed to be an emergency, an unlawful act perpetrated by another, or during the investigation of a criminal act. Because the PSEBA statute doesn’t provide a procedure to determine benefit eligibility, municipalities have been adopting ordinances establishing an administrative process to determine eligibility. A recent Appellate Court decision upheld a non-home rule municipality’s ordinance establishing an orderly and uniform process for determining PSEBA eligibility.

The attached draft ordinance titled “Establishing an Administrative Procedure for Assessing and Determining Claims under the Public Safety Employee Benefits Act”, was drafted by the Village’s attorney and is consistent with ordinances that other municipalities are adopting following the Appellate Court decision. The intent of the ordinance is to conduct a process and hearing to consider applications for benefits under PSEBA. The process includes: a sworn application from the applicant detailing relevant information as to the eligibility for benefits such as listing spouse, children/dependents, and other facts supporting the place and nature of the injury as well as a medical record release. Once the application is completed and submitted, the

Village Administrator will review the application to determine to: 1) Award PSEBA benefits; 2) Deny PSEBA benefits; or 3) Request a hearing to determine PSEBA eligibility. If a hearing is required, the Mayor with consent of the Village Board will appoint a licensed attorney to serve as the hearing officer to conduct an administrative hearing. If an applicant is denied PSEBA benefits he/she can appeal the decision to a hearing officer as well. The determination by the hearing officer will be deemed final and would only be subject to judicial review by appeal to the Circuit Court by the applicant or the Village. Finally, the ordinance requires from anyone who receives PSEBA benefits an annual affidavit attesting to their ongoing eligibility for the benefits they are receiving.

Implications:

Is this item budgeted? Currently the Village doesn't have any employees receiving PSEBA benefits.

Any other implications to be considered? The final version of the ordinance still remains subject to modifications by the Village attorney before final approval by the Village Board. This also includes finalizing the application that is required by the ordinance.

Attachments:

Draft Ordinance Establishing an Administrative Procedure for Assessing and Determining Claims under the Public Safety Employee Benefits Act

**ORDINANCE ESTABLISHING AN ADMINISTRATIVE PROCEDURE FOR
ASSESSING AND DETERMINING CLAIMS UNDER THE PUBLIC SAFETY
EMPLOYEE BENEFITS ACT**

WHEREAS, the Village of Roselle is an Municipal Corporation; and

WHEREAS, the Public Safety Employees' Benefits Act ("PSEBA") or "Act" was enacted in 1997 to provide for the taxpayer payment of health insurance benefits, when a "full-time law enforcement officer, correctional or correctional probation officer, or firefighter suffers a catastrophic injury or is killed in the line of duty". (820 ILCS 320/10 (a)); and

WHEREAS, the Village pursuant to *Englum v. The City of Charleston*, 2017 Ill. App. 4th 160747 (2017) has authority to establish an administrative procedure for determining claims for benefits under the Act; and

WHEREAS, among other things, the Act fails to define "basic group health insurance plan"; and

NOW THEREFORE BE IT ORDAINED, by the Mayor and Board of Trustees, that {INSERT} of Chapter {INSERT}, of the Code of Ordinance of the Village of Roselle hereby amended by the addition of Sections ____ through ____, which shall read as follows:

SECTION 1:

Section 2-____. *Title.*

Administrative Procedure to Determine Eligibility Under the Public Safety Employees' Benefit Act and Establish Definitions and Procedures for the Maintenance of Such Benefits After Their Award.

Section 2-____. *Purpose.*

The purpose of this ordinance is to provide a fair and efficient method of determining the eligibility of full-time Roselle police officers and firefighters to the benefits enumerated under the Public Safety Employees' Benefits Act ("PSEBA"). All benefits shall be consistent with PSEBA and be no less than, nor greater than provided by the Act.

Section 2-____. *Not a Contract.*

The administrative procedure provided in these sections is not a contract that bestows a benefit or entitlement on any particular individual and may be modified by the Village at any time.

Section 2-____. *Catastrophic Injury.* Catastrophic Injury shall have the meaning established by the Illinois courts or legislation: whichever is more restrictive.

Section 2-____. *PSEBA Initial Qualification.*

Any full-time firefighter or police officer who, after November 14, 1997, suffers a catastrophic injury or is killed in the line of duty, may apply for health insurance benefits under PSEBA in strict conformance with the standards set forth below. The same benefits may be extended to a spouse and eligible dependent children (hereinafter “applicant’s beneficiaries”), provided that all terms and conditions as established in PSEBA are fully satisfied.

Section 2-____. *Application Procedure.*

A PSEBA application shall be filed by a PSEBA applicant no later than thirty (30) days from the date a permanent duty-related disability pension claim is awarded. In the event that the employee claim is on PSEBA as of the date of adoption of this ordinance, the employee shall within thirty (30) days of notice from the Village Administrator to fully complete a PSEBA application as furnished by the Village Administrator (hereinafter “Administrator”). The Administrator shall provide the applicant with a copy of this ordinance at the time the PSEBA application is provided.

- A. The application shall include the name of the employee, the full name of the applicant’s spouse, date of marriage, with marriage license attached, birth certificates for all dependent children, and any and all other documents establishing that the child is “dependent” as set forth in PSEBA, the date of hire, detailed information regarding the incident (including date, time, place and nature of injury, and any other factual circumstances surrounding the incident giving rise to said claim, witnesses to the incident, witnesses the applicant may call at a PSEBA hearing, information and supporting documentation filed with the Pension Board by the applicant and all identified exhibits in the Pension Board application, any and all rulings or determinations by the Pension Board, any and all documents supporting the PSEBA eligibility requirements and the names and addresses of the employee’s medical providers. Medical records shall be secured by the Village. Failure to file a fully complete application, along with submittal of all supporting documents, shall result in a forfeiture of the benefits under PSEBA (consider adding: “up

to the date of the next renewal period, at which point the same application requirements shall apply).

- B. *Medical Release Required.* A signed PSEBA Medical Authorization Release authorizing the collection of medical information by the Village related to the incident, including, but not limited to, disability pension proceedings, workmen's compensation records and medical records. The release shall be submitted with the PSEBA application. The PSEBA Medical Authorization Release shall specify the name, address, email and phone information for pertinent health care providers and hospitals, along with the employee's signature and a witness's signature. The release shall comply with HIPAA standards. Medical records shall be considered "supporting documents" as required above.
- C. *Additional Information.* The Administrator shall, at any time, have the authority to modify the PSEBA application, or seek additional information, to better enable the Village to ascertain the applicant's qualifications.
- D. *No Review Until Complete Application Filed.* An initial review of the PSEBA application will not occur until all of the information, including the supporting documents, are submitted to the Village's Administrator.
- E. *Sworn Application.* The application for PSEBA benefits shall be sworn to by the applicant and notarized.

Section 2-____. *Application Review by Village Administrator (Notification).*

Upon receipt of a fully completed application for PSEBA benefits timely filed, the Administrator shall review the application and supporting documents and make an initial determination as to whether or not an administrative hearing is required.

- A. *Additional Information.* The Administrator may require other information necessary to make a determination as to whether or not an administrative hearing is required, including, but not limited to, health insurance benefits the employee is currently receiving or is eligible to receive; or,

any other health insurance benefits family members are otherwise entitled to. The applicant has an on-going obligation to update insurance information provided and failure to do so may result in the denial of benefits and/or reimbursement for duplication coverage. If duplication coverage has been received by a PSEBA beneficiary, further PSEBA benefits will be denied until the Village has been fully reimbursed by the PSEBA beneficiary for what it would have been credited if it had known about other coverage.

- B. *PSEBA Approval.* If the Administrator determines that all PSEBA requirements have been satisfied, he may grant the PSEBA benefits. The applicant will be notified and required to contact the Village Administrator's Office within thirty (30) calendar days for benefit explanation and processing.
- C. *PSEBA Denial.* If the Administrator denies the benefit based on the preliminary record, the applicant will receive notice of such denial and the applicant shall have the right, in writing, to request an administrative hearing which shall be served on the Administrator not later than thirty (30) calendar days after being served with a written notice of denial.
- D. *Request PSEBA Hearing.* If the applicant, upon receiving written notice of denial, fails to request an administrative hearing within thirty (30) days, the applicant shall contact the Village Administrator's Office to discuss other potential health insurance options. Failure to request an administrative hearing when thirty (30) days after being served with a written notice of denial of the PSEBA benefits by the Administrator, shall result in a forfeiture of those benefits under PSEBA.
- E. *Setting Initial Date.* If the applicant requests an administrative hearing, the Mayor will appoint an Administrative Hearing Officer within 30 days of the request. The Administrative Hearing Officer shall set the first date of the administrative hearing within thirty (30) calendar days of being appointed.

Section 2-____. *Administrative Hearing Officer/Hearing.*

- A. *Appointment of Hearing Officer.* The Mayor with the advice and consent of the Village Board is hereby authorized to appoint a person to hold the position of hearing officer for any hearing that is scheduled by the Village for PSEBA benefits. In making this selection, the Mayor shall consider all of the pertinent information, including at a minimum:
- i. The candidate's ability to completely perform the services;
 - ii. The candidate's background, service and performance data made available on file with the Village or otherwise obtained by the Village;
 - iii. The candidate shall be an attorney licensed to practice law in the state of Illinois for at least three years prior to appointment and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence and administrative practice.
- B. *Powers of the Hearing Officer.* The hearing officer shall have all the powers granted under common law relative to the conduct of an administrative hearing, including the power to:
- i. Preside over PSEBA hearing(s);
 - ii. Administer oaths;
 - iii. Hear testimony under oath or affirmation and accept evidence that is relevant to the issue of eligibility;
 - iv. Issue subpoenas to secure attendance of witnesses in the production of relevant papers or documents upon request of the parties or their representative;
 - v. Rule upon objections and the admissibility of evidence and other motions;

- vi. Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing;
- vii. Issue written factual findings and decision based on the evidence presented at the hearing, the law and after entertaining arguments either oral or written, in the discretion of the hearing officer.

Section 2-____. *Administrative Hearing.*

A. The administrative hearing shall be held to adjudicate and determine whether the applicant is eligible for PSEBA benefits consistent with the Act and as follows:

- i. *Time and Date.* Hearing shall be held on the date, time and place established by the hearing officer with appropriate notice served upon the applicant;
- ii. The applicants shall ensure that all hearings shall be attended by a certified court reporter and transcripts of all hearings shall be made by a certified court reporter and a copy provided to the Village at the applicant's expense within fourteen (14) days of the PSEBA hearing. If the applicant establishes, by a final non-appealable order, that he or she is qualified for PSEBA, the Village shall reimburse the applicant for the court reporter and transcript costs;
- iii. *Procedures.* The Village and the applicant shall be entitled to representation by counsel at said hearing and may present witnesses, testimony and documents, cross-exam witnesses, request the issuance of subpoenas to compel appearances of witnesses and the production of relevant documents. Each party shall bear its own costs of counsel and witnesses.
- iv. *Evidence.* The Illinois Rules of Evidence shall apply to the extent practicable unless the hearing officer determines that application of a rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of their affairs. Such

determination shall be in the sole discretion of the hearing officer, but the hearing officer shall state on the record the reason for that determination.

- v. *Burden of Proof.* The applicant shall have the burden of proceeding and the burden of proof to establish that the applicant is qualified to receive PSEBA benefits.
- vi. The determination of the applicant's eligibility for PSEBA benefits shall constitute a final administrative determination for purposes of judicial review.
- vii. *Administrative Records.* All records pertaining to the administrative process will be held in a separate file in the employee's name in the Village's Finance Department.

Section 2-____. *Administrative Review.*

The Administrative Hearing Officer's determination shall be subject to judicial review by the applicant or the Village.

Section 2-____. *Health Insurance Benefits.*

The "basic level" insurance plan of the Village shall be its lowest cost policy. An applicant may choose to enroll in any other health insurance plan offered by the Village different from the basic level insurance plan, but shall pay the difference in insurance premium between the Village's basic plan and the other plan. Failure of the PSEBA beneficiary to timely pay the premium's non-basic level coverage shall result in cancellation of the health insurance.

Open Enrollment. Individuals receiving benefits under PSEBA shall complete a PSEBA extension application provided by the Village Administrator no later than thirty (30) days prior to the end date of the Village's open enrollment period.

Section 2-____. *Other Health Insurance Benefits.*

- A. *Other Benefits.* Health insurance benefits payable from any other source will reduce the benefits payable from the Village. Each applicant shall sign an affidavit attesting to the fact that he or she is not eligible for insurance benefits

from any other source, unless there is another source. If there is another source, the applicant shall notify the Village of that source no later than five (5) business days from that source becoming available to the applicant or the applicant's beneficiaries.

B. *Reimbursement.* Receipt of insurance benefits from other sources without notice to the Village will require the applicant to reimburse the Village for those benefits.

C. *Medicare Eligibility.* The applicant shall notify the Village when the applicant becomes Medicare eligible regardless of the status of the enrollment period, so the Village can assist with the transition to Medicare coverage and/or adjust health insurance benefits or PSEBA benefits accordingly.

SECTION 2: If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

SECTION 3: Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

SECTION 4: This Ordinance shall become effective upon passage, execution by the Mayor and publication as required by law.

AYES:

NYES:

ABSTAIN:

PRESENT:

ATTEST:

Mayor, Village of Roselle

Village Clerk

Date: _____