

City of Boynton Beach Municipal Firefighters Pension Trust Fund

MINUTES

November 6, 2019

1:00 P.M.

The special meeting of the Board of Trustees of the City of Boynton Beach Municipal Firefighters' Pension Trust Fund was called to order by the Board by Mr. Matt Petty – Chairman on November 6, 2019 at 1:00 P.M. at 2080 High Ridge Road, Boynton Beach, Florida.

TRUSTEES PRESENT:

Mr. Matt Petty – Chairman; Mr. Jon Raybuck – Secretary; Ms. Desirae Watler – Trustee; Mr. Robert Taylor & Mr. Stan Cale – Trustee.

ABSENT:

Mr. Glenn Joseph - Ex-Officio.

OTHERS PRESENT:

Mr. Michael Clelland, Counsel for Mr. Michael Sidaway; Mr. Michael Srebnick, Board Special Counsel; Mr. Adam Levinson, Board Attorney – Klausner, Kaufman, Jensen and Levinson; Mr. Dave Williams, Plan Administrator and Mr. Michael Sidaway.

It should be noted that there was a quorum for the Board to have an official meeting.

PUBLIC DISCUSSION:

None

INFORMAL DISABILITY HEARING – MICHAEL SIDAWAY:

Mr. Levinson outlined the purpose of the meeting today, being an informal hearing to review the matter of the disability claim of Mr. Sidaway. Mr. Levinson explained the informal hearing rules. The disability file and contents were detailed as well. Mr. Levinson reviewed the pertinent elements of the law 18-182 and Florida Statute Chapter 175 provisions. Service, Non-Service, Causation Total and Permanent definitions were also explained. Mr. Levinson also spoke to the evidence in the case being the greater weight of the evidence based on facts presented.

IME reports of Dr. Nocero and Dr. Goldschmidt were reviewed as well.

Mr. Michael Clelland opened his position in the matter by affirming that there was an open workers compensation case accepted by the City of Boynton Beach for his client, Mr. Sidaway. The claim of PTSD and Hypertension was not denied by the City.

Mr. Michael Clelland argued that Dr. Goldschmidt missed the mark that three other doctors (two treating Mr. Sidaway and one IME (Dr. Nocero) identified.

Discussion ensued as to whether Mr. Sidaway was seeking ways to improve his medical status. Mr. Sidaway felt he was doing the best that he could. He indicated he could not separate from his family, which one of the programs require. Mr. Sidaway feels his only option is the get away from the place that injured him.

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Mr. Sidaway spoke to the IME of Dr. Goldschmidt. He said that the session was fabricated by Dr. Goldschmidt. Mr. Sidaway learned that Dr. Goldschmidt was a hired gun and not independent.

Mr. Raybuck cited a suicide attempt before employment at age 20 and use of drugs and alcohol in 2012. Mr. Sidaway said he was never serious about the suicide and called it a faint attempt.

Mr. Michael Clelland noted NFPA 1582¹ and Florida Statute 440 treatment Mr. Sidaway is receiving is duty related.

Mr. Raybuck opined that just because the City did not litigate the claim does not mean that Mr. Sidaway meets the threshold of disability. Mr. Michael Clelland countered by saying the City has Attorneys and Claims Specialist and they all felt the claim was valid.

Mr. Petty asked Mr. Clelland why would this Board accept and approve this claim? Mr. Clelland responded that Mr. Sidaway is a long-term Firefighter and is suffering from PTSD based on the medical evidence.

Mr. Raybuck stated causation is the question in his mind. Mr. Clelland advised that nothing in the record other than Dr. Goldschmidt refutes it is duty related. Mr. Clelland stated that hypertension is duty related based on the presumption of the law.

Mr. Petty advised that he was struggling with Dr. Goldschmidt's report. Mr. Clelland replied to give that report as much weight as you feel appropriate. Light duty was brought up, but Mr. Clelland felt the continued exposure will worsen his condition.

Mr. Sidaway's home life was discussed and the level of his blood pressure at work being skyrocketing and lowers when at home. Mr. Sidaway states his body is in Fight or Flight mode when at work.

Mr. Sidaway spoke about his fire service and being his passion and noted he was Firefighter of the Year in the past.

There was a brief recess at 2:54 – 3:04 P.M.

Upon the meeting reconvening, Mr. Levinson recapped the options before the Board.

There was discussion of having another IME due to the concerns of Dr. Goldschmidt's report. Mr. Taylor noted his (Sidaway's) own doctors who have been treating him for a period of time were in agreement.

Mr. Raybuck spoke to the pre-employment issues that should have precluded him ever being hired. Mr. Clelland countered saying that Mr. Sidaway passed all the pre-employment testing.

The Board by consensus felt they would like to pose specific questions to Dr. Nocero and essentially felt the issue is hypertension related and not PTSD. A motion was made by Mr. Raybuck to defer action today and have legal counsel depose Dr. Nocero. Further, that Board Members that have specific questions send them directly to Mr. Levinson. The motion was seconded by Mr. Taylor. The Motion passed 5-0.

¹ NFPA 1582 Medical Examination The key function of the NFPA 1582 physical test is to make sure that the challenges a firefighter faces will not overexert or over-stress the participant. That makes the medical component of the test equally as important.

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OPEN DISCUSSION:

No open discussion.

ADJOURN:

Meeting adjourned at 3:47 P.M.

Matt Petty, Chairman

FOR THE BOARD