

**CITY OF PORT ORANGE
POLICE OFFICERS' PENSION BOARD
NOVEMBER 6, 2017**

The Port Orange Police Officers' Pension Board of Trustees met in special session on Monday, November 6, 2017 in the Police Department Training Room, 4545 Clyde Morris Boulevard, Port Orange, Florida.

MEMBERS PRESENT: Secretary William Proctor (police member)
Warren Carman (fifth member)
Drew Bastian (resident member)
Brian Cobb (resident member)

MEMBERS ABSENT: Chairman Steve Braddock (police member) - excused

CONSULTANTS: Karan Rounsavall, Plan Administrator
Ken Harrison, Attorney (Sugarman & Susskind)*

STAFF: Robin Fenwick, City Clerk
Jamie Miller, Administrative Services Director
Heather Carrizales, Human Resources Director
Grace Stewart, Rick Manager

* Attorney Harrison participated in the meeting via telephone conference call.

Detective David Vastell was also in attendance.

Secretary Proctor called the meeting to order at 4:04.m. A quorum was in attendance.

The purpose of the meeting was to formally accept the disability application submitted by Detective David Vastell and to authorize the plan attorney to gather medical records and schedule an independent medical exam (IME) in accordance with the process outlined in the pension plan document and *Florida Statutes*.

Attorney Harrison explained the disability process. Upon the board's acceptance of Detective Vastell's application, his office would reach out to all the treating physicians and facilities to request his medical records. It was noted that Mr. Vastell signed a HIPPA release allowing his medical records to be disclosed to Sugarman & Susskind. Upon receipt of said records, an independent medical exam would be scheduled with a physician who specialized in the type of disability claimed (e.g. orthopedic, neurological, etc.). Every attempt would be made to schedule the IME at a nearby location, possibly at a teaching hospital that had access to the most current treatments. Depending on how quickly the treating physicians provided the medical records, the process could take six weeks or more.

With this information (i.e. records and IME), the Board would be asked to reach a determination on whether or not Mr. Vastell met the criteria for a disability retirement. These included: (1) did a disability exist; (2) was it job related; (3) was it permanent; (4) had the applicant reached maximum medical improvement (MMI); and (5) was there any other treatment available.

This particular disability application was unique in that Mr. Vastell had worked, and continued to work for the Port Orange Police Department, in a light duty assignment. Two of three workers comp physicians determined that he could return to work (light duty) but would not release him to take the police department's physical abilities test which would allow him to return to regular/patrol duties. A third workers comp physician found him unfit for duty as a police officer.

Member Bastian inquired as to the board's options going forward. Would it be possible for the board to waive the IME and the time and substantial expense involved with same? He felt that the process would only confirm what was currently evident, being that Mr. Vastell's physical abilities were definitely compromised, and that the board would ultimately grant him a disability pension. Member Carman had similar feelings and noted again that two physicians released Mr. Vastell back to a 40-hour a week job but not as a police officer. Further, the physicians would not sign a release for him to take the physical abilities test which would definitely expedite the process.

Mr. Harrison stated that conflicting information from the workers comp physicians emphasized the importance of the IME. While he understood that while board members supported the disability, he recommended the process described so as not to compromise the board's position in the event of a challenge. The board's best defensible position was to follow the procedure. He emphasized that the board had a fiduciary responsibility to all participants of the pension plan and not just a single officer.

The attorney mentioned that it might be possible that an independent physician could review the medical records, and based on that review alone, render a professional opinion without the need for a physical exam. He also noted that Mr. Vastell continued at full salary with the police department; there had been no injury to him financially. Given this fact, Mr. Harrison needed to research to determine the start date of a disability pension.

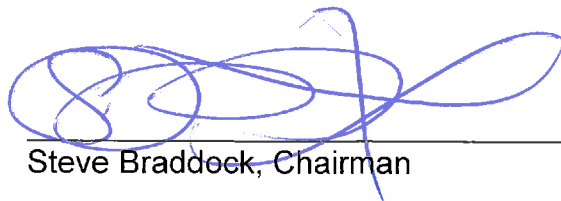
Plan Administrator Rounsavall stated that board members were open to special meetings to deal with the disability application and expedite the process.

Mr. Harrison's recommendation was that it was best for the board to follow the disability procedure, including collection of medical records and an IME. His office would do everything possible to expedite the process.

Member Warren moved to formally accept the disability application submitted by Detective David Vastell and to authorize the attorney to gather medical records and proceed with an independent medical exam as described above. Member Cobb seconded the motion and it carried unanimously.

PUBLIC COMMENT - None

The meeting adjourned at 4:30 p.m.


Steve Braddock, Chairman
Karan Rounsavall, Plan Administrator