

CITY OF PORT ORANGE
POLICE OFFICERS' PENSION BOARD
June 17, 2020

The Port Orange Police Officers' Pension Board of Trustees met in special session on Wednesday, June 17, 2020 in the Police Department Training Room, 4545 Clyde Morris Boulevard, Port Orange, Florida.

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

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

STAFF: Jamie Miller, Administrative Services Director

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

Officer Jonathan Nolan and Emily Nolan were also in attendance.

Chairman Carman called the meeting to order at 9:11 a.m. A quorum was in attendance.

The purpose of the meeting was to conduct an informal hearing on the application for a service-related/line-of-duty disability retirement submitted by Officer Jonathan Nolan and to render a determination as to eligibility for disability benefits.

Board members were in receipt of Officer Nolan's application for service-related disability retirement, police officer job description, and personnel records, along with medical records from workers compensation physicians and other private health care providers. These documents were provided to trustees electronically in advance of the meeting on June 6, 2020 to allow adequate time for review, etc.

Officer Nolan suffered from an illness, specifically *post traumatic stress disorder (PTSD)* related to officer-involved shootings. Due to extenuating circumstances associated with the COVID-19 global pandemic, Attorney Harrison advised that the board could proceed with the disability hearing based on a review of medical records. It was acceptable for the pension board to waive its requirement for an *independent medical exam (IME)* in this instance without concern for setting future precedent.

Attorney Harrison reviewed the plan document (Section 54-128) relating to disability benefits and the Board's responsibility in making such a determination. The most significant record was that provided by workers compensation. In fact, workers compensation already rendered a PTSD disability rating for Officer Nolan. There were five key questions related to a disability determination, to-wit:

1. Did Officer Nolan suffer an illness or injury? *All available medical records concluded that Officer Nolan suffered an illness identified as PTSD.*

2. If Officer Nolan suffered an illness or injury, was it suffered in the line of duty (i.e. directly caused by the performance of his duties as a police officer for the City of Port Orange)? *There was an officer-involved shooting on October 31, 2018.*
3. Does the illness or injury cause Officer Nolan any disability? If so, what is the nature and extent of the disability? *Officer Nolan developed post traumatic stress disorder in the aftermath of the shooting.*
4. If Officer Nolan is suffering from a disability, is that disability permanent or is there a reasonable likelihood that the condition can be improved through treatment? Has Officer Nolan reached maximum medical improvement (MMI)? *Workers compensation established that PTSD was a permanent condition. Given the right treatment with the right individual, it might be curable; however, no further treatment was recommended by health care providers.*
5. Is Officer Nolan totally and permanently disabled from performing the duties of a police officer? *It was the opinion of treating physicians that Officer Nolan was permanently disabled from performing the duties of a police officer.*

Trustees were polled individually as to each question set forth above. For all questions, there was unanimous agreement that the medical records clearly established that Officer Nolan met all criteria for granting a service-related disability retirement.

Attorney Harrison advised how a service-connected disability benefit was calculated. The plan document provided that *"the monthly service-connected disability benefit shall be the participant's accrued retirement benefit or 51 percent of the participant's average monthly compensation at the time of disability, whichever is greater..."*

Member Bastian moved to approve a service-related disability retirement for Officer Jonathan Nolan based on the evidence presented. Member McKay seconded the motion and it carried unanimously.

It was mentioned that Officer Nolan continued to work for the City of Port Orange from the date of the incident noted above and to receive a police officer's pay and benefits without interruption. With the board's decision to approve a service-related disability, Officer Nolan's employment was effectively terminated this date.

Member Bastian then moved to establish June 17, 2020 as the date of disability with benefits commencing on July 1, 2020. Member McKay seconded the motion and it carried on an all yes vote.

Attorney Harrison advised that the pension plan document gave the board the authority to require a periodic re-evaluation of the disability recipient. *[Section 54-128(d)(2) The board may review the status of each disability benefit recipient periodically and may, in its sole discretion, require recipients, as a condition of continued payment of disability benefits, to submit physician's reports or submit to examinations, at the plan's expense, by physicians or other medical, vocational or rehabilitation professionals.]*

Jamie Miller, Administrative Services Director for the City of Port Orange, supported the Board's decision.

Plan Administrator Rounsavall would collect the necessary salary information and request the actuary to provide benefit calculations. Officer Nolan would receive a retroactive benefit payment for July and most probably August (pending receipt of

calculations and finalization of retirement paperwork). Attorney Harrison advised that service-related disability benefits were exempt from federal income taxes up to the 51 percent of average monthly compensation calculation (i.e. minimum benefit).

Plan Administrator Rounsavall reminded trustees to delete Officer Nolan's medical records from their computers. A permanent copy of same would be maintained by the pension plan and Port Orange Human Resources Department.

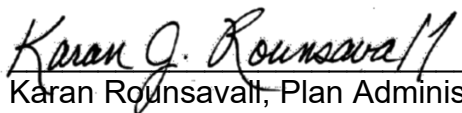
Each trustee of the Port Orange Police Officers' Pension Board sincerely thanked Officer Nolan for his many years of dedicated and loyal service to the police department and wished him the best going forward.

PUBLIC COMMENT - None

The meeting adjourned at 9:50 a.m.

/s/ Warren Carman

Warren Carman, Chairman


Karan Rounsavall, Plan Administrator