

**CITY OF PORT ORANGE  
POLICE OFFICERS' PENSION BOARD  
February 27, 2023**

The Port Orange Police Officers' Pension Board of Trustees met in special session on Monday, February 27, 2023 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)  
Brian Cobb (resident member)  
Andrew McKay (police member)

MEMBERS ABSENT: Drew Bastian (resident member) - excused

CONSULTANTS: Pedro Herrera, Attorney (*Sugarman Sussskind et al*)\*  
Madison Levine, Attorney (*Sugarman Sussskind et al*)\*  
Chad Little, Actuary (*Freiman Little Actuaries*)  
Karan Rounsavall, Plan Administrator

CITY STAFF: April Addison, Human Resources Manager  
Marla Callahan, Risk Manager  
Linda Truitt, Assistant Finance Director

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Chairman Carman called the meeting to order at 2:00 p.m. A quorum was in attendance. Attorneys Herrera and Levine attended the meeting via video conferencing. (Zoom hosted by City of Port Orange)

The purpose of the meeting was to conduct a hearing on the application for a line-of-duty disability retirement submitted by Darren Starling and to render a determination as to eligibility for disability benefits. Officer Starling was in attendance, along with his wife Rachel Starling. Officer Starling was represented by Attorney William Sterbinsky (also present).

Noting that a full pension board was not in attendance, Attorney Herrera advised the claimant that the hearing could be postponed at his request. Attorney Sterbinsky advised that his client was prepared to go forward.

Attorney Herrera discussed the disability procedure and the role of pension board trustees. While this was a challenging task, trustees were fiduciaries and instructed to act in the best interest of the plan and its participants. Section 54-128 of the plan document, along with *Florida Statutes*, addressed disability benefits and the Board's responsibility in making such a determination.

The Board acknowledged receipt of the electronic disability record for Officer Starling which included his application for service-related disability retirement, police officer job description, applicable code provisions, and all medical records for the claimant related to injuries incurred in the line of duty. Additionally, Officer Starling submitted to an independent medical exam (IME) on October 27, 2022 (as required by *Florida Statutes* and the plan document).

The IME was conducted by Amy Clunn of SIMED Health in Ocala, Florida. Board members were in receipt of Dr. Clunn's evaluation.

Attorney Sterbinsky explained that Officer Starling was involved in several vehicle accidents during his tenure with the Port Orange Police Department and sustained significant back injuries resulting therefrom. Officer Starling returned to duty after these accidents. The last accident occurred in 2021. In April 2021, his back pain increased to a level such that he was unable to return to work. Officer Starling's last day on the job was April 23, 2021. There was no light-duty assignment. Based on the evidence presented, Attorney Sterbinsky requested that the pension board approve a service-related disability for his client.

In reviewing the record, Attorney Herrera noted that Officer Starling was at fault for a few of the vehicle accidents. Attorney Sterbinsky responded that these smaller accidents were not contributory to the final disabling injury in 2021.

A workers compensation claim filed on behalf of Officer Starling had been settled. Attorney Herrera advised that the plan document provided for a workers compensation offset and the claimant's benefit might be subject to the offset. As such, the pension board needed a copy of the settlement agreement.

The disability applicant had the burden of proof to provide through substantial evidence their inability to provide useful and efficient service as a police officer. In making this determination, the pension board considered five questions.

1. Did Officer Starling suffer an illness or injury?
2. If Officer Starling 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)?
3. Did the illness or injury cause Officer Starling any disability?
4. If Officer Starling suffered from a disability, was that disability permanent or was there a reasonable likelihood that the condition could be improved through treatment? Had Officer Starling reached maximum medical improvement (MMI)?
5. Was Officer Starling totally and permanently disabled from performing the duties of a police officer?

These questions were answered by Dr. Clunn (IME physician) in the affirmative based on her review of his medical records and her physical examination. Officer Starling suffered from herniated disc with some stenosis, lumbosacral radiculopathy, and hip bursitis/tendonitis from chronic strain. His injuries were likely to be permanent. While he had reached maximum medical improvement (MMI), there might be some treatments that could improve his condition. Dr. Clunn did not believe that these treatments would enable him to return to work as a police officer.

*Member McKay moved to approve a service-related disability retirement for Officer Darren Starling based on the evidence presented. Member Proctor seconded the motion and it carried unanimously.*

Attorney Herrera explained 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..."*

As Officer Starling had not worked any light-duty assignments, the board asked that his calculations be prepared based on two dates: (1) trailing 12 months of salary from April 23, 2021 (last day on job); and (2) trailing 12 months of salary from November 15, 2021 (his official date of termination).

Plan Administrator Rounsavall reminded trustees to delete Officer Starling's medical records from their computers. A permanent copy of the same was maintained by the pension plan.

**PUBLIC COMMENT - None**

The meeting adjourned at 2:38 p.m.



Warren Carman, Chairman



Karan Rounsavall, Plan Administrator