

CITY OF PORT ORANGE
POLICE OFFICERS' PENSION BOARD
March 19, 2025

The Port Orange Police Officers' Pension Board of Trustees met in special session on Wednesday, March 19, 2025 in the Police Department Training Room, 4545 Clyde Morris Boulevard, Port Orange, Florida.

MEMBERS PRESENT: Chairman Warren Carman (fifth member)
Secretary Richard Clark (police member)
Brian Cobb (resident member)
Brian Schnibben (police member)
Lance Green (resident member)

CONSULTANTS: Pedro Herrera, Attorney (*Sugarman Susskind et al*)*
Karan Rounsavall, Plan Administrator

Chairman Carman called the meeting to order at 2:00 p.m. A quorum was in attendance. Attorney Herrera 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 Jacob Mills and to render a determination as to eligibility for disability benefits. Officer Mills was in attendance. Officer Mills was represented by Attorney Paul Kelley (also present).

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 Mills 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 Mills submitted to an independent medical exam (IME) on January 30, 2025 (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 Kelley explained that Officer Mills was involved in two line-of-duty injuries while facilitating an arrest (February 7, 2023 and October 30, 2023). He sustained an injury to his left shoulder during both incidents. He returned to full duty work after the first injury. After the second injury, he had two surgeries for left shoulder rotator cuff repair. He had been on light duty since October 31, 2023. He was currently under restrictions that included no overhead lifting and no lifting over five pounds. The IME concluded that

Officer Mills was totally and permanently disabled and unable to perform the duties of a police officer.

Attorney Kelley went on to disclose a prior sports injury in 2012 that involved some instability due to overuse (i.e. swim team). However, this incident was not contributory to the line-of-duty injuries.

Based on the evidence and records presented, Attorney Kelley requested that the pension board approve a service-related disability for Officer Mills as he met all the criteria for such.

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 Mills suffer an illness or injury?
2. If Officer Mills 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 Mills any disability?
4. If Officer Mills suffered from a disability, was that disability permanent or was there a reasonable likelihood that the condition could be improved through treatment? Had Officer Mills reached maximum medical improvement (MMI)?
5. Was Officer Mills 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 Mills suffered from chronic instability/subluxation inferior of left shoulder and weakness from rotator cuff injury/tears. There was probable capsular injury as well as labrum. His injuries were likely to be permanent. He had reached maximum medical improvement (MMI); Dr. Clunn did not believe that there were any treatments that would improve his condition.

Member Schnibben viewed bodycam video from the first injury (February 2023) after which Officer Mills returned to full-time duty with no restrictions. Attorney Kelley replied that the first injury involved a partial tear. The second injury (October 2023) was a full thickness tear. He was on light duty following the second injury. Officer Mills' first of two surgeries to repair the tear was in February 2024.

Chairman Carman noted that Officer Mills' pre-employment physical did not report any left shoulder strain or weakness. Additionally, Officer Mills currently received a military disability but this was unrelated to his left shoulder. The chairman had personally witnessed the applicant's shoulder instability.

Member Green moved to approve a service-related disability retirement for Officer Jacob Mills based on the evidence presented. Member Schnibben 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*

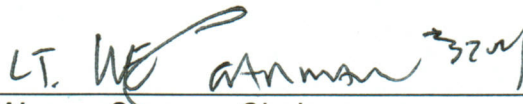
be the participant's accrued retirement benefit or 51 percent of the participant's average monthly compensation at the time of disability, whichever is greater..."

Consistent with past practice, the pension board asked that Officer Mills' benefit calculation be prepared based on two dates: (1) trailing 12 months of salary preceding the date of second injury (October 31, 2023); and (2) trailing 12 months of salary from March 19, 2025 (date of this meeting and his official date of termination).

Plan Administrator Rounsavall reminded trustees to delete Officer Mills' medical records from their computers and return any paper copies to her for destruction. A permanent copy of the disability was maintained by the pension plan.

PUBLIC COMMENT - None

The meeting adjourned at 3:13 p.m.

LT. 
Warren Carman, Chairman


Karan Rounsavall, Plan Administrator