

**West Palm Beach Police Pension Fund
2100 North Florida Mango Road
West Palm Beach, Florida 33409**

Minutes

**March 7, 2014
8:30 AM**

CALL THE MEETING TO ORDER

Mr. Frost called to order the West Palm Beach Police Pension Fund Special Meeting on March 7, 2014 at 8:30 AM, in the main conference room of the Ernest George Building of the Palm Beach County Police Benevolent Association.

Present at the meeting: Jonathan Frost, Board Chairman, Troy Marchese, Board Secretary, Craig Khale, Board Trustee, Chris Fragakis, Board Trustee and Wilton White, Board Trustee (By Conference Call at 8:45 AM).

Also present: Lou Penque, Active Member; Ernest George, Retired member (arrived at 9:15 AM); Bonni Jensen, Board Attorney, Law Offices of Perry & Jensen, LLC; Dave Williams, Plan Administrator.

PUBLIC COMMENT

No comments provided

APPROVAL OF THE MINUTES

Mr. Frost asked if there were any changes required to the minutes of February 14, 2014 & February 17, 2014. Mr. Marchese made the motion to approve the minutes of February 14, 2014 & February 17, 2014, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 4-0. (Mr. White not present during this vote).

APPROVAL OF DISTRIBUTIONS

New Warrants were presented for review and execution. Warrants approved at the last meeting were presented to the Board in spreadsheet format by Mr. Williams. A formal administrative report was also provided for consideration. After Mr. Williams detailed the report, Mr. Fragakis made the motion to approve, which was seconded by Mr. Marchese. All Trustees voted yes, and the motion was passed 4-0. (Mr. White not present during this vote).

ATTORNEY'S REPORT

Mrs. Jensen presented a fee reduction amendment for the Eagle Asset Account due to favorite nation's clause in our contract. A motion was made to accept the amendment, which was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 4-0. (Mr. White not present during this vote).

Mrs. Jensen outlined a proposed derivative action complaint from Labaton Sucharow, LLC against the Colfax Corporation, which is a global manufacturing and engineering company. Mr. Marchese made a motion to retain Labaton Sucharow, LLC for the complaint cited. Mr. Fragakis seconded the motion. All Trustees voted yes, and the motion was passed 4-0. (Mr. White not present during this vote).

Mrs. Jensen presented a revised ConvergeX Recapture Services Agreement for execution. All commissions over 85 mils per share for US domestic equity. All other recapture trading 80% of net which was acceptable to the Board.

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INFORMAL DISABILITY HEARING –

Mrs. Jensen indicated that there was an official quorum to proceed with the meeting. However due to exigent circumstances, Mr. White was unable to attend in person. Mr. White would like to participate via conference call. Mr. Marchese made a motion to approve Mr. White's participation by conference call. This motion was seconded by Mr. Fragakis. All Trustees voted yes, and the motion was passed 4-0. Mr. White joined the meeting at this juncture. Mrs. Jensen also disclosed that there was a document in this matter from Anthony Spatara (family member). The document was not related to the disability claim itself, but due to the relationship she wanted to advise the Board. The Trustees acknowledged to foregoing and felt that there was no conflict to consider.

Mr. Frost asked Mrs. Jensen to proceed with her presentation. All affected parties were noticed of the meeting and it was noted that Mr. _____ was not present.

The records of the _____ Matter were available to the Trustees prior to this meeting and were available for review and reference during this meeting. Mrs. Jensen indicated that this was the informal hearing step of this process.

Mrs. Jensen indicated that if the Board felt they had enough evidence to grant or deny the claim they could do so, or request for further documentation if need be before making a decision.

Mr. _____ filed his application for duty disability on January 18, 2013. The application indicated that he was suffering from Post Traumatic Stress Injury/Disorder. In filing for his disability he relied on the medical opinions of Dr. Sobhan, Dr. LaPointe, Dr. Griffith, Dr. Campazzi, and Bradley Van Hoek (Therapist).

Dr. Sobhan concluded that Mr. _____ was unable to perform the functions of a police officer, stated a diagnosis of PTSD - severe and prescribed medication. Dr. Sobhan reviewed the records of the Therapist Bradley Van Hoek.

Dr. LaPointe concluded that Mr. _____ was unable to perform the functions of a police officer, stated a diagnosis of PTSD related to work and in February of 2013 concluded that he was at MMI.

Dr. Griffith evaluated Mr. _____ for the City of West Palm Beach as a part of the Worker's compensation case and performed psychological testing. His conclusion in November of 2012 was that he was temporarily unfit for duty. In his one year update, Dr. Griffith concluded that Mr. _____ is unfit for duty with little likelihood of remediation success. However, he noted that Dr. LaPointe had indicated that Mr. _____ is able to return to work to complete "any and all police related duties except road patrol" and that _____ may return to full duty by December 31, 2013. It is further the opinion of Dr. LaPointe that it is probable that Mr. _____ could return to full duty provided he continue to diligently participate in treatment with the full support of his administration and peers. This documentation was requested from Dr. LaPointe, however, it was not provided.

Dr. Campazzi similarly found that Mr. _____ was unable to perform the functions of a police officer and stated a diagnosis of PTSD related to work. He based his opinion on the records of Dr. Sobhan and Bradley Van Hoek.

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In January of 2013, Bradley Van Hoek completed a form for the Board indicating that Mr. _____ was unable to perform the functions of a police officer and stated a diagnosis of PTSD related to work. However, in June of 2013, she indicated that starting in October of 2012 she began to “harbor doubt about his symptomology or sincerity.” Her June 18, 2013 report indicates concerns about malingering and engaging in therapy as a means to a financial incentive. In this same report she indicates that during the testing with Dr. Griffith, Mr. _____ made photos of the tests and sent them by text message to Ms. Van Hoek asking for advice on taking the tests. Ms. Van Hoek also indicates that Mr. _____ was treated by her in 2010 and 2011 for PTSD.

It was also noted that Ms. Van Hoek was scheduled for a ride along as a civilian observer with Mr. _____ (while on duty) and that Dr. Stock indicated that there may have been a romantic interest expressed between Mr. _____ and Ms. Hoek.

There were two workers compensation cases filed with the City regarding Mr. _____ PTSD. Both were dismissed. The Board’s records contain a final order in a Manatee County Worker’s Compensation case in which the worker’s compensation judge found that Mr. _____ committed worker’s compensation fraud by:

- altering a work restriction form to include restrictions not ordered by the doctor and providing that form to the employer;
- verbally misrepresenting his restrictions to the employer;
- verbally misrepresenting the duties for his light duty position and verbally misrepresenting the access route to the room; and
- knowingly signing forms indicating he was entitled to benefits based on these misrepresentations.

The Fund records show that no criminal charges were filed, the IA was dropped and no money was repaid.

The Board arranged for an IME with Dr. Goldschmidt who determined that Mr. _____ is not wholly prevented from useful and efficient service as a police officer. He was concerned about elevated readings of lab results and the impact that these might have if there were a steroid problem.

Dr. Goldschmidt’s testing revealed malingering and an elevated fake bad score.

The Plan document allows for a second IME if there is a dispute between the other two doctors.

Dr. Stock determined that Mr. _____ is disabled from performing the functions of a police officer, was likely to remain totally and permanently, which was as a result of work related PTSD. Dr. Stock did address the fake bad score and discounted it based on the research suggesting that it cannot be determined based on one score. He finds that he is not malingering but does note that he has some asocial tendencies - trying to beat the system, but Dr. Stock finds that such a person can be traumatized after repeated exposure to traumatic events.

Mr. _____ was terminated from employment on December 5, 2013 as a result of his exhaustion of his 360 days of allowable temporary assignment as Mr. _____ could not return to duty. This termination was after the second report of Dr. Griffith.

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The Trustees discussed the matter and issues were raised about the creditability of Mr. _____, dating as far back as his application of employment. Conflicting reports from Ms. Van Hoek was also discussed. The reliance of information from prior doctors was also considered as Mr. _____ was being examined.

Mr. Marchese felt that the reports in their totality did not prove by the preponderance of the evidence that Mr. _____ was permanently and continuously totally disabled from performing the functions of a police officer. As such, Mr. Marchese made a motion to deny the application for duty disability benefits to Mr. _____ at this informal level. That motion was seconded by Mr. Kahle. All Trustees voted yes, and the motion was passed 5-0. It was noted that a final order would follow and that Mr. _____ would have the opportunity to appeal the Board's decision.

ADMINISTRATOR'S REPORT

No formal report provided.

OPEN DISCUSSION

No open discussion ensued

ADJOURNMENT

Being there was no other business; the meeting was adjourned at 10:05 AM.

Next meeting is scheduled for March 14, 2014 at 8:30 AM

Troy Marchese, Board Secretary