CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS IN THE CITY OF MIAMI BEACH

900TH BOARD OF TRUSTEES MEETING

JUNE 21, 2018

COPIES OF MINUTES ARE BEING PROVIDED WITHOUT ATTACHMENTS.

ALL ATTACHMENTS ARE AVAILABLE FOR REVIEW AT THE FIRE & POLICE PENSION OFFICE

900TH MEETING OF THE BOARD OF TRUSTEES
CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS
IN THE CITY OF MIAMI BEACH

June 21, 2018

CALL TO ORDER

Meeting was called to order at 8:33 AM by Acting Chairman Frazier.

Board members present were as follows:

FIRE DEPARTMENT	POLICE DEPARTMENT	ADMINISTRATION
David J. Frazier, Jr.	Eric M. Garcia	Hernan D. Cardeno
Paul D. Johnson	Elise Spina Taylor	John E. Rebar
Dwight M. Nicholas		Debora J. Turner

Absent was:
James D. Nolan - Police Department

Present were:
Paul A. Daragjati, Esq. - Attorney, Klausner, Kaufman, Jensen & Levinson
Donna Brito - Executive Director
Myriame Jean-Baptiste - Pension Administrator
Clara La Rosa - Office Manager

Also present were:
James DiGiuseppe, CAIA - Account Manager, Wellington Mgmt. Company LLP
Robert L. Jenkins - President, Fraternal Order of Police
John P. Murray, PA - Attorney for Leslie A. Saballos
Jennifer Saballos - Wife of Former Police Officer Leslie A. Saballos
Leslie A. Saballos - Former Police Officer, City of Miami Beach

INPUT FROM ACTIVE AND RETIRED MEMBERS

Robert L. Jenkins, President of the Fraternal Order of Police, expressed his concern regarding the length of time it takes for the Medical Board to review a member's disability file and evaluate the member's condition. In his opinion, the Medical Board's most recent performance is not acceptable.

Trustee Cardeno asked if there are alternate doctors who can serve on the Medical Board. Director Brito replied there are no alternates. Attorney Daragjati explained how other plans use a rotation of medical doctors based upon the nature of the claimed injury. For this plan, the ordinance is very old and requires a Medical Board to be composed of three physicians. The Board agreed to review options.

MINUTES – May 17, 2018 - Regular Meeting of the Board of Trustees

Minutes from the regular board meeting were distributed as part of the agenda packet. Trustee Rebar made a motion to approve the minutes. The motion was seconded by Trustee Spina Taylor and unanimously carried.

INTRODUCTION OF NEW FIRE AND POLICE PENSION OFFICE EMPLOYEE

Director Brito introduced Office Manager Clara La Rosa, and welcomed her to the office staff.

COMMENCEMENT OF MONTHLY PENSION

Fire Captain Scott G. Todd retired under the DROP program, resigned from City employment effective May 26, 2018, and is eligible to receive his monthly pension in accordance with the Miami Beach Code, Section 66(a) and Section 79.

Fire Lieutenant Jose M. Morales retired under the DROP program, resigned from City employment effective May 31, 2018, and is eligible to receive his monthly pension in accordance with the Miami Beach Code, Section 66(a) and Section 79.

Trustee Johnson made a motion to approve the commencement of pension for Captain Todd and Lieutenant Morales. The motion was seconded by Trustee Turner and unanimously carried. (Attachment #1-1 Schedule A)

DISABILITY OFFSET FOR FRANK REEDER'S LUMP SUM WORKERS' COMPENSATION SETTLEMENT

Director Brito advised that retired Police Officer Frank Reeder finalized a structured settlement of his workers' compensation claim with the City of Miami Beach. The Board's actuary, GRS Gabriel Roeder Smith and Company, has determined a revised monthly workers' compensation offset for Mr. Reeder. (Attachment #2)

DECEASED

Beneficiary Nathalie E. Ruff, widow of retired Police Officer Robert F. Ruff, passed away on May 12, 2018. Her pension will be discontinued as there are no other beneficiaries under the Plan.

Beneficiary Nadene B. Schantz, widow of retired Firefighter Gerald A. Schantz, passed away on May 19, 2018. Her pension will be discontinued as there are no other beneficiaries under the Plan.

Trustee Johnson made a motion to stop the monthly pension for Nathalie E. Ruff and Nadene B. Schantz. The motion was seconded by Trustee Nicholas and unanimously carried. (Attachment #1-1 Schedule A)

FINANCIAL REPORT FOR JUNE 2018

The Financial Warrants were distributed by Director Brito. (Attachment #1)

Trustee Johnson made a motion to accept the Financial Warrants as presented. The motion was seconded by Trustee Spina Taylor and unanimously carried.

COUNSEL

Cypen & Cypen Newsletters:

1. *May 10, 2018*
2. *May 17, 2018*
3. *May 24, 2018*
4. *May 31, 2018*
5. *June 7, 2018*

JAMES DIGIUSEPPE, CAIA – ACCOUNT MANAGER
WELLINGTON MGMT. COMPANY LLP

Mr. James DiGiuseppe reviewed in detail the Fire and Police Pension Small Cap 2000 portfolio as of May 31, 2018. He updated the Board on the ongoing SEC investigation about certain aspects of Wellington's private company investment activities. Attorney Daragjati explained that SEC investigations do require time to complete, adding that as long as all performance aspects are reviewed, the process is a normal practice.

INFORMAL SERVICE CONNECTED DISABILITY HEARING

Attorney Daragjati explained that this is an informal hearing where the Board does not entertain any evidence other than the written material which it has before them, plus statements from the applicant and the applicant's attorney. The Board may ask questions of the applicant and the applicant's attorney. The granting of a disability has to be supported by competent substantial evidence. The three criteria to consider for this disability are (1) total, (2) permanent, and (3) service connected. Three separate motions, one for each criterion, would be in order to either grant or deny the disability.

In this case, there is an issue of Post Traumatic Stress Disorder (PTSD). Under Florida law, specifically Chapter 185.18 of the Florida Statutes, if an applicant has injuries that were sustained while serving in any armed forces, the applicant cannot be granted a service connected disability. There are indications in the Medical Board's report that this may be the case. If the injuries were not sustained in military service but were sustained while working as a Police Officer in the City of Miami Beach, then the applicant can be granted a service connected disability. If the injuries were not sustained during service to Miami Beach and not during service to the military, then the applicant can discuss with his attorney whether or not he wants to amend his application to a non-service connected disability. These are all the permutations for the Board to consider.

Attorney John Murray, Counsel for Leslie Saballos, presented his case stating that Mr. Saballos served the City of Miami Beach for almost 12 years and he also served in the U.S. Army. The evidence and the Board's medical doctors conclude that he is totally disabled. Therefore, the main issue is if his disability is service connected, meaning in the line of duty with the Police Department. Mr. Saballos has multiple physical and psychological issues that he suffers from but his disability application focused specifically on the things that happened to him in the line of duty: a torn ACL, hypertension and PTSD. He did not overreach by encompassing all of his injuries, therefore, that supports his credibility. You will find upon review of the medical records that these three specific issues are service related.

Attorney Daragjati asked if Mr. Saballos was separated from employment based on his injuries. Attorney Murray replied that Dr. Yusef A. Canaan rendered him unfit for service in 2015. Attorney Daragjati stated for the record that under the Gaines' case, because the plan sponsor separated the applicant from employment based upon the same injuries that he is applying for in his disability, the total criterion has been established as a matter of law. As a result, the issues before the Board are whether or not the injuries are permanent and service connected.

After various discussions, Trustee Johnson made a motion that Mr. Saballos' disability is considered to be total. The motion was seconded by Trustee Turner. Roll was called.

Trustee Cardeno	*Yes*
Acting Chairman Frazier	*Yes*
Trustee Garcia	*Yes*
Trustee Johnson	*Yes*
Trustee Nicholas	*Yes*
Trustee Rebar	*Yes*
Trustee Spina Taylor	*Yes*
Trustee Turner	*Yes*

The motion unanimously carried.

Trustee Spina Taylor made a motion that Mr. Saballos' disability is considered to be permanent. The motion was seconded by Trustee Rebar. Trustee Garcia asked if the motion was to determine that the injuries incurred in the line of duty are permanent. Attorney Daragjati clarified that the injuries, notwithstanding where they came from, need to be deemed permanent. Then, if permanency is established, a service connected or non-service connected disability has to be approved. After various discussions, Trustee Spina Taylor withdrew her motion so that the Board could first work through whether or not the disability was service connected.

Trustee Spina Taylor inquired how the process would work if Mr. Saballos wanted to change his application to a non-service connected disability. Attorney Daragjati replied that if the Board is leaning towards denying the service connected disability, Mr. Saballos and his attorney should know that before they make any decision about changing their application. Under the law, the Board is supposed to take actions that favor granting a benefit versus not granting a benefit whenever there are any fine line distinctions.

Trustee Spina Taylor made a motion that Mr. Saballos' disability is considered to be service connected. The motion was seconded by Trustee Rebar.

Attorney Daragjati swore in Mrs. Jennifer Saballos and she spoke regarding her husband's hypertension. She alleges the hypertension is 100% due to his service with the Police Department and remarked that controlling his hypertension is their main priority.

Trustee Johnson commented that there are many people actively working on the department who are being medically treated for hypertension and continue to perform their duties. He does not see hypertension alone as being the root cause of not being able to serve as a Police Officer. Trustee Nicholas stated that during the time Mr. Saballos was employed by the City of Miami Beach, he was also re-deployed to active military duty and there was no mention of hypertension. Trustee Cardeno, on behalf of the Board, thanked Mr. Saballos for his service in the U.S. military and with the City of Miami Beach. He remarked that regardless of prior instances of hypertension, the military still cleared him for re-deployment. In addition, the Medical Board's opinion did not mention hypertension.

Attorney Murray responded that the Medical Board's opinion focused primarily on Mr. Saballos' military service. It focused very little on the incidents that occurred while on duty with the Police Department. Attorney Daragjati observed that in the initial application, the reasons Mr. Saballos asserted for a disability were 1.) torn ACL, 2.) hypertension, 3.) PTSD. Just to be clear, is the assertion that the hypertension is the predominant issue or are all three equally persuasive. Mr. Murray responded that all three are equally persuasive but the hypertension is all encompassing and chronic.

Attorney Daragjati commented that it has been his experience in representing Police Officers over the years that for these types of heart and hypertension claims, judges of compensation claims generally have found that uncontrollable hypertension tends to be compensable, whereas controllable hypertension is not. Attorney Murray replied that Mr. Saballos qualifies for the heart bill and receives both social security and military disability benefits. He understands that this is not binding on the board but it is persuasive.

Director Brito was asked to repeat the motion. Trustee Spina Taylor made a motion that Mr. Saballos' disability is considered to be service connected. The motion was seconded by Trustee Rebar. Roll was called.

Trustee Cardeno	*No*
Acting Chairman Frazier	*No*
Trustee Garcia	*No*
Trustee Johnson	*No*
Trustee Nicholas	*No*
Trustee Rebar	*No*
Trustee Spina Taylor	*No*
Trustee Turner	*No*

The motion unanimously failed.

Attorney Daragjati stated that now the remaining issue is permanency. He read Section 185.18(3)(c), of the Florida Statutes, "A police officer will not be entitled to receive any disability retirement income if the disability is a result of injury or disease sustained by the police officer while serving in any armed forces".

Trustee Garcia commented that all of the worker's compensation treatment forms that he reviewed noted that maximum medical improvement was achieved and there were no functional limitations. Acting Chairman Frazier agreed.

Trustee Johnson remarked that the variety of Mr. Saballos' injuries prevent him from returning to work as a Police Officer so to him, the disability is permanent. However, there was overlapping service between the Police Department and the military, so he is unclear as to how that impacts permanency. Trustee Garcia agreed. He believes that Mr. Saballos is permanently disabled but doesn't accept that any of the work related injuries alone have proven to be the cause of that permanency.

Attorney Daragjati commented that if the disability is permanent but the injuries cannot specifically be attributed to military service, then a motion to approve permanency would be appropriate. If there is any uncertainty, Florida law requires the Board to make a decision in the best possible light towards the applicant. Attorney Daragjati asked Attorney Murray if he wanted to take a moment to discuss with his client whether or not they wanted to amend the application to a non-service connected disability. Attorney Murray agreed. The meeting was paused at 10:00 AM and resumed at 10:14 AM.

Attorney Murray advised that Mr. Saballos would like to amend his disability application to a non-service connected disability. This enables the Board to consider the totality of the circumstances with regard to his disability. Attorney Daragjati agreed and said that since the application was amended, it would be proper to start over with each motion.

Trustee Turner made a motion that Mr. Saballos' disability is considered to be total. The motion was seconded by Trustee Johnson. Roll was called.

Trustee Cardeno	*Yes*
Acting Chairman Frazier	*Yes*
Trustee Garcia	*Yes*
Trustee Johnson	*Yes*
Trustee Nicholas	*Yes*
Trustee Rebar	*Yes*
Trustee Spina Taylor	*Yes*
Trustee Turner	*Yes*

The motion unanimously carried.

Trustee Rebar made a motion that Mr. Saballos' disability is considered to be permanent. The motion was seconded by Trustee Nicholas. Roll was called.

Trustee Cardeno	*Yes*
Acting Chairman Frazier	*Yes*
Trustee Garcia	*Yes*
Trustee Johnson	*Yes*
Trustee Nicholas	*Yes*
Trustee Rebar	*Yes*
Trustee Spina Taylor	*Yes*
Trustee Turner	*Yes*

The motion unanimously carried.

Trustee Spina Taylor made a motion that Mr. Saballos' disability is considered to be non-service connected. The motion was seconded by Trustee Johnson. Roll was called.

Trustee Cardeno	*Yes*
Acting Chairman Frazier	*Yes*
Trustee Garcia	*Yes*
Trustee Johnson	*Yes*
Trustee Nicholas	*Yes*
Trustee Rebar	*Yes*
Trustee Spina Taylor	*Yes*
Trustee Turner	*Yes*

The motion unanimously carried.

Mr. Saballos' non-service connected disability was granted based upon all three criteria being present.

Mr. Saballos thanked the Board for their consideration. He stated that he was 4th generation military and 1st generation law enforcement and he would still be wearing both uniforms if he had no injuries or issues at all.

DIRECTOR'S REPORT

Adopt Investment Policy changes to the Voya and Nationwide Retirement Solutions DROP investment options and the J.P. Morgan Investment Strategy and Guidelines of the Strategic Property Fund

Prior to the board meeting, Director Brito was notified that the Voya Prudential High Yield Bond Fund (PHYZX), one of the four newly approved Voya funds, may be closed to new customers. She requested that the approval of the Investment Policy be deferred until clarification is received from Voya. This could possibly delay the start of the Nationwide Retirement Solutions DROP option. The Board agreed.

For the Board's information, the following items were distributed as either part of the agenda or meeting packet:

A. Administrative Budget

ADJOURNMENT

Trustee Spina Taylor made a motion to adjourn the meeting. The motion was seconded by Trustee Garcia and unanimously carried. The meeting was adjourned at 10:30 AM.

James D. Nolan, Chairman

David J. Frazier, Jr., Secretary