

SUNRISE POLICE OFFICERS' RETIREMENT BOARD

13790 N.W. 4th Street, Suite 105

Sunrise, FL 33325

December 10, 2015

10:00 AM

Call to Order

On behalf of the Board, Mr. Dave Williams called the meeting to order at 10:16 AM.

Roll Call

Present were Mr. Michael West – Chairman, Mr. William Bettencourt – Secretary, Mr. Eric Goldstein, Mr. Roger Torres and Mr. Dan Ransone (left at 11:17 AM).

Absent & Excused

None

Others Present

Mr. Ron Cohen & Mrs. Richelle Levy – Rice Pugatch Robinson, P.A.; Ms. Kelly Scapecchi City of Sunrise (left at 10:47 AM), Mr. Dan Rakofsky – Attorney for Eli Vidal, Mr. Eli Vidal – Disability Applicant (left at 5:12 PM), Mr. Dave Lokaj & Mr. Steve Allen - City of Sunrise; Mr. Dave Williams - Plan Administrator.

Public Discussion

None

Approval of minutes

November 05, 2015 - Tabled

Approval of Payables

After review and consideration of the payables of November 05, 2015 through December 09, 2015, a motion to approve was made by Mr. Bettencourt, seconded by Mr. Torres. Motion carried 5-0.

Disability Hearing

Mr. Cohen began by outlining the procedures in place and the duty of the Trustees in a situation of this nature. Decision to be made on evidence before them and that personal feelings are not to play a role in their decisions. Mr. Cohen reviewed the ordinance sections applicable to this claim. Mr. Rakofsky reinforced the fact that the employee was expected to perform not only all the standards of a law enforcement officer but the standards of a police supervisor as well, specifically as a police sergeant as the job description entails. Mr. West said that classification really designates that, it doesn't say sworn police officer, it says job classification.

Mrs. Levy began by revisiting what Mr. Cohen stated. She stated that they prepared a booklet which is a somewhat condensed version of things that the Trustees should need initially with the understanding that you always have the benefit of going to the other documents.

The booklet includes the application submitted by Sgt. Vidal when he applied for disability (questionnaire, physicians report, job description of a police officer, the ordinance provisions that Mr. Cohen reviewed including the Board operating rules, Sgt. Vidal's pre-employment physical to ensure that there was no pre-existing condition that would disqualify him from this disability benefit, his treating physician records – Dr. Judith Marquit and Dr. Arun Somani). The applicant also got his own IME by Dr. Jeffrey Rakofsky (the Attorney's brother) which is also included, and two IME's that we sent him to, One Dr. Juandalyn Peters and Dr. Thomas Goldschmidt. The application was initially submitted on July 08, 2015, a supplemental application was submitted on July 21, 2015 to answer some provisions that has been left blank. Sgt. Vidal is 43 years old and does have 17 ½ years of service. The application requested in service disability, stating that he is prevented as performing his duties as a police officer due to post traumatic stress disorder. On the application, he lists two incidents which he believes are the basis for his disability. There was a 2007 incident where he was knocked unconscious by a suspect and the second incident where there is no date on the application where he was wrestling with a suspect and his shoulder was broken. He lists witnesses to the incident who are officers within the police department and the application contains a lengthy list of symptoms, experiences and details the required task that he believes he is prevented from performing as a police officer and as a leader in the Sunrise Police Department, all that is in the application. The symptoms include physical and psychological which he states prevents him from responding to calls, confronting suspects, making decisions and other tasks that are required of him as a Sergeant. Attached to the application is the physicians report Dr. Melnick. Dr. Melnick is Board Certified in Psychiatry and saw the applicant on June 25, 2015 in connection with his application. Mrs. Levy stated that she knows everyone in the room has reviewed the documents but she pulled out significant parts of the records and gave a summary. Dr. Melnick states that based upon the applicant's condition his Psychological readiness is such that he would not perform safely or effectively in a law enforcement role due to service incurred illnesses. He states that the basis for his conclusion is multiple psychological traumas that were told to him by the applicant. His exam consisted of a 60 minute review of medical records provided by the applicant, (but it doesn't specify what was provided) and a 90 minute interview. The Doctor concluded that the applicant is not ready or willing to return to police work and that in his opinion, he is totally and permanently disabled. Dr. Marquit is a Psychologist who the applicant has been seeing since January 21, 2015. He listed his presenting issues as a marital affair, heart attack, mother passing away and several work issues. In June 2015, Dr. Marquit submitted a letter stating that she believes that due to post traumatic stress disorder, he was not fit for duty. The second treating doctor is a Psychiatrist, Dr. Somani who began treating him on February 06, 2015 as a result of a referral from his Psychologist Dr. Marquit. Dr. Somani also states that he is suffering from post traumatic stress disorder and reports it is having witnessed horrible violent events as a police officer and fears getting killed and the diagnostic impression is that of post traumatic stress disorder and that he is unlikely to improve and does not believe it is safe for him to return to police work.

The IME obtained by the “applicant” from Dr. Jeffrey Rakofsky who is a Psychiatrist who saw him on July 24, 2015 and conducted a 140 minute interview and concluded that the applicant has post traumatic stress disorder that was a result of work place trauma, and that he cannot perform his duties as an officer.

The Board sent the applicant for two independent medical evaluations. The first one was from Dr. Juandalyn Peters who is a Psychiatrist. She conducted a mental status exam on June 11, 2015 and concluded that he is permanently and totally disabled and that he is unable to perform the job requirements of analyzing problems and dealing objectively with people. He cannot act calmly and quickly in emergencies and he is prevented from establishing and maintaining effective working relationships due to post traumatic stress disorder. She states that he denied any Psychiatric conditions prior to January 2015. She noted in her mental status exam that she believes his short term memory is slightly impaired, although she does state that his insight and judgment were intact. This interview lasted 90 minutes.

The second IME that was submitted was from Dr. Thomas Goldschmidt who is a Psychiatrist. He conducted the IME on October 20, 2015. He did some other exams in addition to a mental status exam. He listed several other incidences that the other doctors didn't mention. He reviewed Dr. Marquit and Dr. Somani's reports. Dr. Goldschmidt conducted an MMPI exam and a modified somatic perception score. In the doctor's conversation with Sgt. Vidal, he noted that Sgt. Vidal was currently working or going to be working with family and had an import business. He reviewed the IME's that were submitted to him and he states that the applicant denied anxiety and depression but admitted to guilt over an affair. He conducted a modified somatic perception score which is consistent with excessive where you exhibit physical pain due to psychological injury. He said his clinical profile indicates other psychiatric issues such as hypochondria and that the profile is not consistent with PTSD. He stated that the applicant planned to either return to work with the Sunrise Police Department or to go work in his father's bakery. He stated that the applicant reported PTSD symptoms to him that he had experienced in the past although he noted that that had been previously denied. Dr. Goldschmidt has concluded that the applicant does not have PTSD, that he is not totally and permanently disabled from his duties as a police officer and that his Psychiatric issues that he may have are not a result of in-service incidences. His conclusion is that he has no current or liable Psychiatric limitations barring him from returning to patrol duty.

Attorney Rakofsky began by thanking the board for their time. He stated that from his observations, Sgt. Vidal has had a very good career at the Sunrise Police Department, being promoted, receiving awards, being in specialized units, etc. He states that what everyone might see is a little bit of a breakdown over the past several years.

A pattern that will correspond exactly with what all of the doctors with the exception of one will tell you regarding how PTSD works, how it causes deterioration and how that deterioration manifests itself in the social, work and personnel life of people who have it. He started with the first event in 2006 where Sgt. Vidal was found unconscious by his car with his radio imprinted on his head. He was transported to Broward General and found to have a closed head brain injury. He was released that night and had some time off from work. Mr. Rakofsky stated that people deal with trauma in different ways based on their personalities. You have the benefit of understanding Sgt. Vidal, not just as a name on a report, but as a person. A person with quirks and idiosyncracies, habits, cultural differences and similarities, just like everybody else has. From his understanding at this point, there is no critical incident stress debriefing going on at the Sunrise Police Department. That does the best job at warding off future PTSD. So I am planting that in there so you remember when we get a few years forward in the story that there was nothing done to prevent it and that ends up coming back to haunt Sgt. Vidal. Sgt. Vidal doesn't know what is going on, he just knows that he is agitated and certain things are triggering him. Mr. Rakofsky stated that with all the events that went on, he ended up making a bad decision and having an extra marital affair and there was an investigation. Mr. Vidal has held himself accountable for this and went to counseling with his wife and has done a lot of work on this. It was through this counseling, the Psychologist identified what to her was a very clear, solid and festering case of PTSD of which extra marital affairs are often symptoms. This was the symptom that brought about the realization that he was suffering from this disorder. Every single symptom that he has lines up with PTSD. So he got the diagnosis and he didn't think it was a real thing and didn't believe it and resisted it for a little while and finally realized that it was a real thing. He tried to work through it for a long time and realized from the feedback and open communication and not holding it inside that he really was putting himself in danger by going to work in this kind of job and having those types of symptoms present. This is embarrassing for him. At times he has a fear of defecating on the way to calls, a history of urinating during sleep.

Recess 11:14 AM – 11:25 AM

Mr. Rakofsky continued stating his symptoms that have been present a little over a year. Mr. Rakofsky stated that if this does not get treated over time, it will get worse. In this case it was festering for 8-9 years and continued to be triggered by the same triggers and continuing to add other types of work related traumas on top of them (some of them in the field and some were not related to police work ex. IA's, being skipped for promotion). Mr. Marquit, Psychologist who did extensive therapy sessions with Sgt. Vidal and his wife Stacey and she determined this and over time tested her theory and stated that yes, it absolutely was PTSD and referred him to a Psychiatrist (Dr. Sumani) who agreed with her after evaluation and began certain prescriptions that are directly related to the symptoms. In April, Dr. Marquit suggested that he be restricted from full duty. She wrote him a note on May 11, 2015 and Sgt. Vidal presented this letter at work. Mr. Rakofsky stated that in workers compensation cases, there is also an exception in workers compensation for mental illness.

It is recognized just for first responders that PTSD is a work related illness. The catch is that the same statute that allows that does not allow you to have time off and causes you to burn your accruals. Sgt. Vidal is now completely out of accruals. Upon requesting and being denied light duty, he submitted the Disability Pension Application to the Board. The reports show just how harmful those triggers are. Triggers are the thing that reminds you of the original traumatic event and how often those triggers can be revisited. Mr. Ransone asked if "through works comp what was the process requirements? Did workers comp require him to do anything?" Mr. Rakofsky stated that the required a first report of injury which he did, and then there is a doctor's check up (evaluation), by a worker's comp doctor that is assigned.

Sgt. Vidal received word from his Psychologist and Psychiatrist that they believe that he fits the criteria for the disability pension and that he has PTSD illness that is very likely permanent and not expected to improve and most importantly that it extends directly from work place events. Mr. Rakofsky found a Board Certified Psychiatrist in Dade county who does a lot of work with Miami Dade PD. Dr. Elon Melnick was hired and paid and evaluated Sgt. Vidal. He was determined to have moderate to severe PTSD, not likely to improve that that he believed based on all the information that he had that Sgt. Vidal did not hold back any information. The conclusion was that Dr. Melnick agreed with the Psychologist and the other Psychiatrist. Mr. Rakofsky then realized that he has another source, his half brother, Dr. Jeffrey Rakofsky who lives in Atlanta and set up an evaluation. Dr. Rakofsky produced a report (provided it for free). Johns Eastern has a representative who scheduled an appointment for Sgt. Vidal to see Dr. Goldschmidt in September, which is actually a week after he saw Juandlyn Peters (hired by the Board) who agreed that Sgt. Vidal has moderate to severe PTSD, specifically caused by events in the work place, exacerbated by events in the work place and that it is not likely that he will be able to return to duty. Mr. Torres asked for confirmation about the two appointments between Dr. Peters and Dr. Goldschmidt. Sgt. Vidal had an appointment with Dr. Goldschmidt seven days after Dr. Peter's appointment. That morning he had a very bad episode of anxiety where he was vomiting, took a Zanax and he made the decision to call them and tell them what is going on and to reschedule. Mr. Rakofsky continued to state that the Board despite having five professionals all agree on all of these points that there should be a second IME. Mrs. Levy notified Mr. Rakofsky of a second IME appointment on October 20th. Sgt. Vidal got a call from Risk Management that they needed to reschedule his workers compensation appointment to October 20th. He explained that he has an IME for the pension board that day and they said they would re-contact him. Mrs. Levy then got in touch with Mr. Rakofsky and informed him that the second IME appointment is with Dr. Goldschmidt (who also happens to do workers comp work for Risk Management). Mr. Rakofsky was in contact with the Attorney who represents the carrier for workers compensation who told him that Sgt. Vidal has missed numerous appointments and that they are planning on denying his claim because they can't prove his illness because he won't cooperate and he won't go to appointments. On October 20th, Sgt. attends his appointment with Dr. Goldschmidt.

Mr. Rakofsky stated that Dr. Goldschmidt got everything wrong and his opinion is completely unsupported and based on mischaracterization and false information, not reading the paperwork that he was presented with. Most importantly he did not mention or acknowledge the existence of Dr. Melnick's investigation. Mr. Rakofsky stated several claims that Dr. Goldschmidt stated that don't add up. Mr. Rakofsky stated that Dr. Goldschmidt doesn't have a good reputation in the workers compensation world and his connections were all over him for allowing Sgt. Vidal to walk into his office. Sgt. Vidal told Dr. Goldschmidt that he feels nauseated and wants to vomit when he smells the set of brakes burning which reminded him of that original incident, and in the doctor's report, it states that he lost consciousness in front of his car and to this date, when he smells burning brakes and tires, it upsets him and makes him vomit. He mentioned that he knows about one cancellation and Sgt. Vidal apologized and that didn't make it into the report.

Mr. West asked Sgt. Vidal if he was resuscitated on duty and he stated that they gave him Nitro and confirmed that he was not resuscitated and brought back to life and didn't die on duty. Mr. Williams asked for confirmation from Mr. Rakofsky that if he was not on duty would he have had a stent inserted and Mr. Rakofsky stated that he is not saying that. He is saying that if he was not on duty and had a heart attack that it would be the exact same thing in the eyes of workers compensation as it is with work related according to the Heart Bill. Mr. Williams said that he is not disputing that, and that Mr. Rakofsky said it sounded like he had a heart attack because he was on duty.

Mr. West asked about military service and said that Sgt. Vidal has stated a bunch of different lengths of time and different roles. He told Dr. Somati that he was in Israel military for two and a half years and has not had any combat experience. His employment application lists that he has combat experience. Sgt. Vidal stated that everybody is in combat in Israel. Everyone is trained, not just a Sergeant, you are a police officer with the rank of a Sergeant, then they determine where you are going to be according to the time that you are in the military. He was a commander or in charge of a bunch of soldiers which were inspecting ammunition, stationed in a hot zone. He was never on foot patrol, securing or doing what the other soldiers were. He was considered in combat because Israel is in combat all the time. Mr. West asked Sgt. Vidal if his initial application for employment was inaccurate because it stated that he was in combat and he actually was not and Sgt. Vidal stated that it is accurate. Mr. West questioned his actual combat time; there is a conflict in what Sgt. Vidal is stating and what the doctor had recorded. Sgt. Vidal stated that Sunrise Police contacted the Israeli Embassy to verify that he had honorable discharge and that he fulfilled his national duty and wasn't kicked out. Mr. Cohen reviewed the section in the Ordinance that talks about eligibility. "Injury or disease sustained by the member while serving in any of the Armed Forces." Mr. Rakofsky stated that Dr. Goldschmidt never entertained the possibility that there is a PTSD here. His whole goal was "give me what you can, so I can find other things to suggest without any basis."

Break 12:12 PM – 12:38 PM

Mr. West asked if they could agree based upon Dr. Goldschmidt's report and his physical observations of Sgt. Vidal that his assumptions that he may possibly be taking testosterone were correct. Mr. Rakofsky would not agree. Mr. Rakofsky said that Dr. Goldschmidt is talking about abusing this. Mr. West tried to confirm that Sgt. Vidal's treating doctor is giving the correct amount of testosterone for his needs and not exceeding the proper level. Mr. Ransone asked Mrs. Levy if Dr. Goldschmidt was aware throughout all the other medical opinions provided to him at the time of evaluation that there was any documentation that Sgt. Vidal was taking testosterone. Mrs. Levy said she thinks it is in Mr. Marquit's report. Mr. Rakofsky stated that what he is saying and he can prove is that Dr. Goldschmidt continues to misquote Sgt. Vidal, he makes assumptions, he claims to have talked to Sgt. Vidal's wife and he did not talk to her. There is constant garbage in here.

Mr. West stated that he is extremely concerned about the combat issue and the discrepancies. He would like to see the military jacket. Sgt. Vidal said that they won't release it to him. Mr. West asked if Sgt. Vidal can get it and provide it to the Board and Sgt. Vidal said they won't give it to him either. Mr. West further stated that Sgt. Vidal got out of the military in June 1997, started the Police academy right after that. His first episode was in 2006 and here we are in 2015 and we are evaluating a claim of PTSD.

There was discussion about a report that was received on December 01st from Dr. Goldschmidt that had a report that was not filled out. This missing page was received December on 09th and then Mr. Rakofsky received another missing page when he walked in today from the report dated October 20, 2015 report. Mr. Rakofsky would like for the Board to pay careful attention to the type of attention and detail that Dr. Goldschmidt does as he evaluates Sgt. Vidal. Whether he really was concerned or he was looking for things to throw off what is already established. Mr. West asked what his motivation would be.

Mr. Ransone asked Ms. Levy what the delay was. She stated that did not know what the delay was for the page she got yesterday. She noticed that a page was not filled out and called the office last night and they sent it over. The incomplete page was part of the package that was initially sent to Dr. Goldschmidt. Mr. Rakofsky asked if the page was blank yesterday, at what point did they fill it out and send it in.

Mr. Cohen asked how we obtained Dr. Goldschmidt and Mr. Williams said he suggested Ms. Levy look into hiring him from past experience. Mr. Williams said it was his understanding that when we went to him for the first time, he had an appointment for workers comp, so we couldn't use him. As a result, we went to the other doctor, subsequently, we found out that that appointment never happened and we engaged Dr. Goldschmidt for the second IME. Mr. Williams said the doctor has been around for a very long time and is very well known. He has a very detailed medical history. Mr. Rakofsky asked Mr. Williams if he knows if Risk Management is also paying him because he is rendering an opinion on the workers comp case. Mr. Williams said he would have to ask Risk Management that question.

Mr. Williams stated that if Risk Management used him, then we could not use him and Mr. Rakofsky disagreed. Sgt. Vidal interjected and said he didn't know about who is paying him, but he can say that when he asked him questions that he asks every doctor, "do you think conceivably, because he never thought that he would end up here retiring this way, humiliated the way that he has to bring all the facts and everything is an open book, nor do I want it, nor do I fucking care for it. The only thing I can tell you that before I left every doctor, I said do you think at any point in my life I can be a police officer or I can even go to a temporary duty at the Sunrise Police Department, let me burn my two and a half years, let me burn whatever time I have and leave with dignity and he told me and I quote "I don't care what I am going to write in this report, that City doesn't want you back in any shape or any form, so it really doesn't matter." Now, he tells you that he talked to my wife, I will bring my wife over here and she will tell you that she never saw, smelled or knows what this guy looks like.

Mr. Williams said that the bottom line is that we engaged him just like we would engage any other medical professional. Sgt. Vidal – I understand and he is a horrible doctor. Mr. Rakofsky said that they are not questioning his decision. Mr. Williams – I think there was an inference in your presentation that we are in cahoots with the City and there is - complete separation. Mr. Rakofsky – That is not what I meant to infer. Mr. Rakofsky – What I am saying is, is that the doctors creditability should be in question, not that there is any conspiracy with the pension board, or pension board administrator or pension board attorney to do anything that is underhanded at all. What I think is happened here obvious from some of the things you said is that everyone wanted this guy.

Mr. Rakofsky said that Dr. Goldschmidt is looking things to rule out the diagnosis that was developed by all these other people. He continues to say that when evaluating the history and in person, all we are getting is his subjective and bias efforts to discredit the previous decisions. Mr. Rakofsky continued to state that Dr. Goldschmidt is the only doctor whose diagnosis varies from the other doctors.

Mr. Torres stated he doesn't think it is that significant that it is written different ways in the two different reports. Sgt. Vidal may have said the same thing to the doctors and they reported how they perceived his explanation. Mr. West said that the same reporting and way things were written could also be a factor in Dr. Goldschmidt's report. Mr. Torres said in this case you have five doctors with one opinion and one doctor with a different opinion.

Mr. Goldstein was talking about a current IA investigation and Mr. Rakofsky said that he is not aware of Sgt. Vidal discussing any current IA investigation at this time and he has no knowledge of any current IA investigation at this time.

Mr. Bettencourt asked Mr. Cohen "If someone applying for disability is currently under IA investigation, would that affect the proceedings?" Mr. Cohen stated that it would depend on what the investigation is about. There is a provision in Florida law that

prohibits people from talking about open IA investigations and if we go on from here, Mr. Cohen will look into it.

Mr. Cohen said that he thinks there is talk in the report about an extra marital affair at work and this could possibly be the open IA investigation. Mr. Rakofsky continued by saying he doesn't want to hide anything and hopefully the Board can see that they are extremely forthcoming and that he is not allowing Sgt. Vidal to hide anything because there is no way that this Board is going to award a disability pension on a mental illness unless he is totally and completely transparent and that is what he has been, in all these reports and today.

Mr. Bettencourt asked if this investigation predates the disability notification. Mr. Rakofsky said that Sgt. Vidal had an extramarital affair, it was an anomaly in a very good marriage and it has been attributed as a symptom of PTSD. Nevertheless and it was hard for him to actually believe this. One of the reasons he found out is because he took full accountability, made full disclosure to his wife and he has started the mending process. From what Mr. Rakofsky can tell is that he has come very far with this and his marriage has never been stronger than it is now. Mr. Rakofsky said that it is his understanding that there was no extra marital activity at work; however he does believe there is a City employee involved.

Mr. Bettencourt said the reason why they are asking is because if someone is under investigation for an IA complaint and then they claim disability, it kind of becomes irrelevant so I just think it is prudent to ask. Mr. Rakofsky said that this PTSD diagnosis is not an effort in any way nor has it used in that way to absolve Sgt. Vidal of his responsibilities to his wife or to somehow make an excuse for what he did. Mr. Ransone asked if Mr. Rakofsky can go one step further and state that the reason he is filing is not because of fear of being terminated or demoted or receiving any penalty at work? Mr. Rakofsky said absolutely not. Sgt. Vidal said that he asked for light duty status. If he was afraid, he would have never asked for it and just went FMLA. He wanted to come back. Mr. Ransone confirmed with Sgt. Vidal that he is not filing for disability for fear of termination or demotion or any type of punishment from the City of Sunrise and Sgt. Vidal agreed. Mr. Rakofsky said that there was no sexual contact at work so the chance of that being a terminable offense is really low. Since the investigation is not closed, the Board has no information on it.

Mr. Bettencourt asked what the events are that they are claiming as causation for PTSD. Mr. Rakofsky said being struck with the radio is the precipitating event and can be identified as originally causing the trauma and then everything else has been an exacerbation and that is the opinion of the Psychiatrists and the Psychologists who have drawn those events out and have decided that those are exacerbations to the condition.

Mr. Cohen asked if Sgt. Vidal has any income from any businesses. Sgt. Vidal stated that his father has owned a bakery in Sunrise (Pita Pan Bakery) for the past 20+ years and he has no intentions of working with his father. He has no involvement in the company.

Sgt. Vidal had a company that he opened in 2008 and that company was dissolved in 2010. The only income he has is with the City of Sunrise. His wife works for Broward County and that is the only other income they have.

Mr. Bettencourt reinforced that the first report of injury was May 11th and there was a vacation to Israel and asked if he was psychologically able to travel. Sgt. Vidal stated that he did have a couple of panic attacks while in Israel which was reported to all doctors. This vacation was part of the reason for the delay for the application.

Mr. Bettencourt asked at what point did this affect his work. Mr. Rakofsky said it was progressive and if you look at the signs of what Psychologists know about PTSD, they know that multiple events compound and they make for a much worse case of PTSD. Where there might have been PTSD in 2006 after the radio incident, he thinks as more things happened, and as he kept visiting triggers, he thinks that it gradually got worse to the point where he was susceptible to all the types of stress and that probably affected his work components. Sgt. Vidal said that one of the ways that you build a wall around PTSD is to keep yourself busy and avoid situations. He said that he would ask for more tasks (Major Torres supervised him and Mr. Bettencourt worked with him). He would complain and ask for more tasks so he would be away from his normal duties and have an excuse as to why he was in the office hiding. This is well documented by Lt. Dorn, Capt Torres, etc. Sgt. Vidal said that he fought the doctors from February – May because he didn't want to believe that he had PTSD. Sgt. Vidal said that he never thought in his entire life as pathetic and unglorified as it is that he would end up begging for a pension because he cannot do this job. He said that he lived this job and wanted it more than anything else. He stated that he would kill his own mother at one time to get promoted at one time. It catches up to you. It is not a make believe. He can't and doesn't want to fake this. He can be like some people and not ask for help, but he asked for help. He knew at one point that he is a God dam liability to everyone who works around him because you don't know if he is going to snap, you don't know if he is going to zone out, have a flash back, etc. He is not trying to milk this cow. He wants to go away and stay away. If he could be a cop he would he will do whatever is necessary but he can't because he knows there is no permanent light duty. He doesn't want that. He went to four doctors and each one said that is what you have to include our IME. Each one of them asking questions and wanting to know why do you have PTSD. He has to live with it and doesn't want to tell his kids that he had to retire because he has a mental illness. He doesn't want to mark that check box on any application that asks if he has a mental illness. He has to disclose that he has PTSD. Mr. West said that since he did his last evaluation and he was given an incredible evaluation and Mr. West thought that he gave him a genuine outlook and deserved all of the positive comments that were noted. He did work hard for Mr. West and maybe Mr. West didn't see or pick up any of these things and whatever was affecting him didn't reflect in his work in Mr. West's opinion.

Sgt. Vidal said that he can still put the uniform on and can still do a magnificent job but he can't trust himself with other people's life's. I know he hates me. I know he is pissed off at me about Dorn because he told me. I respect this guy more than I respect anyone

in this police department, the only one who told me the truth. I can put on a uniform right now and run circles around other people. It is what if that can trigger him. I know what happened that day and I know that I am not going to get fired, but I also know that I cannot put a gun belt on and a uniform and how many times he was told to put a vest on, he was hoping a bullet would fucking hit me and yes I did contemplate suicide. That is something that this jerk didn't even ask me. I think about it and that my kids would be fucking orphans. I do think about it, do I think about and regret my affair. Of course I regret it. I regret it every day I wake up and look at her, because I have no other reason but selfishness. This is not theatrical. I am not crying just to break your hearts and melt you guys. It is my raw feelings. I don't want any hand outs, but boy is it hard to pay the bills during the holidays with no paycheck. The hardest thing I have done is to call Wells Fargo and tell them that I am not paying the mortgage this month. Nobody in their right fricking mind will do that just to try to get out of a job. I can still do this job; I just don't trust myself even though there are other people saying he is a great guy and can be trusted. One doctor accused me of using steroids and said that no matter what I write in this report, they don't want you back at the City of Sunrise. He spoke to someone because he doesn't know me from Adam. I am not saying that he spoke to someone over here, but he spoke to someone. Guys, I am not asking for anything other than to let me go and shrivel, it is misery to take up every morning and take 5-6 pills and go to bed and take more pills just to keep yourself straight so you won't snap on your kid or wife. Yes, there are sometimes when I go on vacation or away and I will be on top of that bell, man you never even thought I have anything, yet there are some days I can't even peel myself off the dam bed. I will sit there from 8:00 when I drop my kid off of school and I am not going to get out of bed until my wife comes home from work and I have to. That is the truth. That is something that he doesn't know because he never asked. I can still tell you that with all this shit that I went through that I can still put the uniform on and do a great job, it is what if. Mr. West said he knows that he does a good job. We are in an awkward position as well. Mr. Rakofsky said that he has 17 ½ years and that we really need consider what motivation he really has to go through this. He is suffering already, he lost his accruals, he doesn't have a pay check. He has a check box as a mental illness but regardless of that motivation, what the statute says is that the person has to have a work related illness or condition caused by the job that has to be permanent and you have all these doctors (one out of six that said something different) in a case where you are looking for a preponderance of the evidence and I think there is a clear preponderance of the evidence that he meets the definition for service incurred disability. Mr. Goldstein asked if the causations manifested themselves from the military career, what he saw in the toils of war or is it from one specific incident and that is where the dilemma is. Did it start from being in a combat zone, and it festers again when he comes here. Mr. Rakofsky said with no due respect, but to think like that is exactly why he made the comment before that you have doctors that you pay to look into that possibility and they look very much into it and one doctor in particular thought of everything he could think of as far as it could be this under these circumstances and all you know is what is in his report. Mr. Rakofsky said that this Board needs to access the evidence and not decide what I would be like.

Mr. West asked Mr. Cohen what the next part of the hearing is and Mr. Cohen advised him that that part of the hearing should be declared closed and it is time to move onto the decision making process by asking questions one by one.

Motion by Mr. Torres, seconded by Mr. Ransone that Sgt. Vidal is totally disabled:

Mr. Bettencourt – Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – Yes & Mr. West – No. Motion passed 4-1. Mr. Torres feels he is totally disabled because the level of proof is enough and that out of the six doctors that have seen him; five of them have concluded the PTSD with the central theme being no necessary cure for PTSD.

Mr. West mentioned that we can re-contact each doctor and ask “why didn’t you give more information”?

Mr. Williams asked Mr. Cohen if it is possible to schedule a continuance if all parties agree instead of either a denial today and then fast forward to a formal session if it gets to that point. Mr. Rakofsky stated that what is being discussed right now is not something that can be received from each doctor, it is a known fact in the field and he thinks that there is ways of accessing that, that don’t take depositions. If there is a continuance of some sort, then the board can ask each doctor to clarify.

Mr. Cohen said as our counsel, the applicant is entitled to a decision today. He certainly can say at any time, let’s not make this final, let’s get additional information. Mr. Bettencourt asked if we make decisions based upon the questions today and then discover other information can the decision be reversed at that time or are we bound by that decision. Mr. Cohen said when a decision is made today, (grant or deny). If it is denied, it is not final. But the way to proceed to a final order is for him to request a full hearing.

Mr. West feels that there is a whole host of unanswered questions that he thinks can be revealed in a final hearing through depositions and also new evidence to be submitted (combat experience, military discharge papers, etc). After all this is reviewed, then everything can be taken into consideration. Mr. Cohen feels there is sufficient evidence in the record for the Board on all the points to make a decision.

Mr. West stressed that we have every opportunity and Fiduciary responsibility to make sure that we do a thorough work up job on each one of these doctors and do not make assumptions on these reports.

Motion by Mr. Ransone, seconded by Mr. Torres that Sgt. Vidal is permanently disabled: Mr. Bettencourt – No, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – No & Mr. West – No. Motion failed 3-2.

Question 3 A-F

- A. Motion that excessive and habitual use of drugs, intoxicants or narcotics is not an exclusionary factor by Mr. Bettencourt, seconded by Mr. West. Mr. Bettencourt –

Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – Yes & Mr. West – Yes.
Motion passed 5-0.

- B. Motion that the total disability is not the result of an injury or disease sustained by the member while illegally participating in fights, riots, civil insurrection and / or committing a crime by Mr. Ransone, seconded by Mr. West. Mr. Bettencourt – Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – No & Mr. West – Yes. Motion passed 4-1.
- C. Motion to find that the disability was a result of an injury or disease sustained by the member while serving in any of the armed forces by Mr. Ransone, seconded by Mr. West. Mr. Ransone would like to see the pre-employment psychological evaluation request. Mr. Bettencourt stated that he feels very strongly that we obtain the military records because if we are going to grant someone a disability pension for PTSD, we have to verify what we are being told. Mr. Torres stated that he likes the idea of the Trustees going through all of the questions and decide one way or another but this particular question, he thinks what he is hearing from his counterparts is not that they believe his injury was related to that but they feel that they want more information to make that determination, so the question is not for us to vote that this does or does not apply, that he is not eligible serving in the armed forces or whatever happened. Mr. Ransone and Mr. West withdrew their motion.

Motion that the member has not met the burden to show that the disability was not a result of injury or disease sustained by the member while serving any of the armed forces by Mr. Ransone, seconded by Mr. Bettencourt. Mr. Bettencourt – Yes, Mr. Torres – No, Mr. Ransone – Yes, Mr. Goldstein – Yes & Mr. West – Yes. Motion passed 4-1. Mr. Ransone is again requesting to obtain the military records and Psychological report from the employment.

- D. Motion that the member has met the burden to show that the disability was not a result of injury or disease sustained by the member while serving any of the armed forces by Mr. Torres, seconded by Mr. Bettencourt. Mr. Bettencourt – Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – Yes & Mr. West – Yes. Motion passed 5-0.
- E. Motion that he is not excluded as a result of injury or disease sustained by the member while working (either as an employee or through some other contractual arrangement) for anyone other than the city, performing a job function the same as or related to the member's city job function and arising out of the scope of such other employment or contractual arrangement; however, this section shall not exclude recovery by police officers while engaged and enforcing the laws of the state by Mr. Torres, seconded by Mr. Ransone. Mr. Bettencourt – Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – Yes & Mr. West – Yes. Motion passed 5-0.

Mr. West stated that there is an inconsistency where he told Dr. Melnick there was a drug deal in 2005 where there was a suspect armed with a gun and he told Dr. Rakofsky he said that he was threatened at gun point. Mr. West feels that in order to clarify this, we need to obtain a police report.

Mrs. Levy stated that the additional records that she will try to obtain include the military records from the Israeli Embassy, the 2005 gun incident, the pre-employment Psychological exams and any IA investigations.

Sgt. Vidal stated that when Dr. Goldschmidt was reviewing the questions he started asking Sgt. Vidal if he hears voices, does he speak to God and does God speak to him and all kind of crazy stuff. I didn't write that down, look at my bubble sheet. So he opens it up and said she scored it wrong, the imaginary person that was supposed to sit with me in that room and watch me take that test was a secretary sitting up front. She never sat in my room, never took the test with me. She opened up the door and offered water. Mr. Cohen said in light of this, it is appropriate to ask how the test was scored. Sgt. Vidal said it was mentioned in front of him that she scored it by the wrong key.

Mr. West said that he would like more information about the statistic on Dr. Goldschmidt's report page 30 on the last paragraph where he refers to the American Medical Association Guides to the Evaluation of Disease and Injury causation second edition, pages 501-505 where he sites on page 504 that PTSD is diagnosed in 7-12% of the general population of individuals exposed to accidents. But rates of 85% have been documented when the accident created an opportunity for compensation eligibility indicating that 73% of claims of PTSD would be more like attributable to eligibility for compensation than traumatic experience. He would like to know if that statistic has been updated, how current is it and who conducted that study. He feels that this is a very strong statement and he is the only person who puts that in there and he would like to ask him about it.

- B3. Motion that this is a service incurred disability by Mr. Torres, seconded by Mr. Ransone. Mr. Bettencourt – No, Mr. Torres – Yes, Mr. Ransone – No, Mr. Goldstein No & Mr. West – No. Motion failed 4-1.
- B1. Motion that the Application was submitted in a timely and proper time frame by Mr. Bettencourt, seconded by Mr. Torres. Mr. Bettencourt – Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein – Yes & Mr. West – Yes. Motion passed 5-0.

Mr. Cohen asked Mr. Rakofsky if he is okay and in agreement with the continuance and that he waives the right to complain. Mr. Rakofsky said that they do waive the right, but at the same time he would like to know if a date will be set today to reconvene.

Motion to continue the meeting for additional records by Mr. Torres, seconded by Mr.

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Ransone. Mr. Bettencourt – Yes, Mr. Torres – Yes, Mr. Ransone – Yes, Mr. Goldstein Yes & Mr. West – Yes. Motion passed 5-0.

After discussion, the next meeting will be scheduled for February 11, 2016 at 1:30 PM.

Open Board Discussion

Mr. Torres asked if the beneficiary issue on Ms. McCue has been addressed. Mrs. Levy stated that according to our ordinance her benefit at the earliest point (July 09, 2016) that she can receive it will go to her estate for Ten Years Certain and Life.

Adjournment

Motion to adjourn at 5:16 PM. by Mr. Goldstein, seconded by Mr. Torres. Carried 5-0.