

CITY OF SIERRA VISTA
POLICE PENSION BOARD MEETING
February 26, 2021

CALL TO ORDER

Chairman Frederick W. Mueller called the regular meeting of the City of Sierra Vista Police Pension Board to order on February 26, 2021 at 10:16 a.m., in the City Manager Conference Room, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

ROLL CALL

MEMBERS PRESENT: Mayor Frederick W. Mueller, Chairman
Barbara L. Fleming, Secretary
Gary L. Smith, Board Member
Jordan Boltinghouse, Police Corporal
Jessica Ferrel, Police Officer

MEMBERS ABSENT: None

OTHERS PRESENT: Shanna Melanson, Human Resources Analyst
Jock J. Russell, Applicant (via telephone)
Thomas Griffin, Applicant Attorney (via telephone)
Stephen Coleman, Local Board Council (via WebEx)

ACCEPTANCE OF THE AGENDA

Jessica Ferrel motioned that the agenda be accepted as written.

Jordan Boltinghouse seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Frederick W. Mueller stated he would accept a motion to go into executive session.

Gary L. Smith motioned that the Local Board go into executive session.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

At 10:46 am Chairman, Frederick W. Mueller took the Board out of executive session.

Chairman Mueller asked the Board if they still needed to take a thirty minute break. Attorney Steve Coleman told the Board they were not required to. Chairman Mueller stated he didn't think they were going to. He asked the Board again if they needed a thirty minute break and Gary L. Smith stated no. Chairman Mueller stated they would go on to...then asked if Mr. Kosmider was coming to the meeting or was he there. Secretary Fleming stated he was not there but was next door at the Police Department and that the Board could request him but that his intent was not to come. Chairman Mueller stated ok. Chairman Mueller stated they could move on to item number two. Secretary Fleming stated they needed to open the line for the others (Mr. Griffin and Mr. Russell) in case they wanted to call in. Chairman Mueller stated why didn't they take care of Mr. Kosmider then she could go ahead and get the other folks on the line. He asked if that was ok and Ms. Fleming stated yes.

NEW BUSINESS

2. Application for Disability Retirement – Matthew Kosmider.

Chairman Frederick W. Mueller stated “may I have a motion to discuss the application for disability retirement for Matthew Kosmider.”

Jordan Boltinghouse motioned for the Board to discuss the application for disability retirement for Matthew Kosmider.

Jessica Ferrel seconded the motion.

Chairman Mueller stated it had been moved and seconded and asked for a staff presentation. Ms. Fleming stated Matthew Kosmider was hired as a Police Officer for the City of Sierra Vista on June 4, 2018. Prior he worked for the Tucson Police Dept. where he served for a little over 3 years.

On November 24, 2018 he was attempting to make an arrest when the suspect fled. Matthew tackled the suspect onto an asphalt surface. He suffered a cervical spine injury to his neck that required surgery. Two more surgeries followed. His claim was accepted by workers compensation.

Timeline of the situation:

11/24/18 Suffered a cervical spine injury

01/14/19 1st surgery - Anterior Cervical Disc replacement C6-7 Anthroplasty

03/04/20 2nd surgery - C6-7 posterior fusion (used a rod & screws)

08/31/20 3rd surgery - Excision of the subfascial seroma cavity, cervical neck coverage of posterior neck seroma. Posterior neck scar incision, local muscle advancement, & local tissue advancement.

He returned to full duty on 03/11/19 after the first surgery but he experienced complications and

had to return to light duty on 10/07/19. He has been mostly on light duty through this process. At his appointment on February 3, 2021, his doctor indicated “From my perspective I do not believe he is at MMI but I do believe he is stationary where enough time has passed from the time of surgery that at this point even though we are not offering him any further surgical reconstruction including plastic surgical reconstruction, I do not believe he is capable of returning back to his regular work duties” He has a Workers Comp IME scheduled for March 24, 2021. According to PSPRS, the Local Board will still need to send Matthew to an IME appointed by them.

Chairman Mueller asked so the action today is appointing his...is scheduling the IME appointment? Ms. Fleming stated yes.

Mr. Smith stated he thought they should not schedule it until they have the workman’s comp report. He asked if they had all the departmental documents related to this; were all those gathered up? Ms. Fleming said yes they did; all the documents are gathered and just because of the many hundreds of pages that is it we didn’t...they are available for use so that is an option. She stated they had a couple options; they could either go ahead and schedule the IME so they ran somewhat parallel or as Mr. Smith said, they could have the worker’s comp IME scheduled; get that result, call a meeting and come back and schedule an IME. Mr. Smith stated he thought they should do that as the proper procedure. Chairman Mueller asked what had been the past procedure? Ms. Fleming said in this last case (Russell) technically they scheduled the IME and he had a worker’s comp IME after; it was the opposite direction. Ms. Fleming stated it also depends on how they file the claims as well because the Board doesn’t control the worker’s comp IME schedule. Mr. Smith stated the IME should have all the information to look at. If they are missing a worker’s comp report and that exam then they don’t have all the information. Mr. Smith stated that was his logic. Mr. Smith stated they missed that with Mr. Russell and he is just trying to get a procedure in every case where the Board is going to insist that is the protocol. Chairman Mueller asked Mr. Smith if what he was suggesting was that they have.... Mr. Smith stated that they table it. Chairman Mueller stated he wanted to talk about the procedure for a minute. Chairman Mueller stated so what Mr. Smith was saying was the worker’s comp report, whatever that is, needs to come to the Board before they assign him to a doctor so the doctor will be able to see it as part of his deliberation. Mr. Smith stated yes. Chairman Mueller stated he agreed with Mr. Smith on that part; it should be standard procedure on how they get those cases done. Chairman Mueller stated he didn’t have a problem with scheduling things as long as they could get the worker’s comp IME to the Board’s appointed IME and schedule so that one follows the other, so they both have the information they need to advise the Board on their decisions. Chairman Mueller stated so that is what they needed to do. Chairman Mueller asked if that was the consensus of the Board; that that is the procedure they should follow. They all indicated yes. Mr. Smith stated he had seen some training put on by Public Safety a couple weeks ago for Local Boards and this was one of the steps they said; get all the departmental reports, get the worker’s comp reports before you schedule your IME to make sure he sees it all. He said they are recommending that and it makes sense. Ms. Fleming stated so they would be looking at making a recommendation to....he’ll (Kosmider) go ahead forward with it of course, the March 24th with the worker’s comp IME and then the Board would make a motion for them to schedule; go ahead and send him to the IME for the Board following the results of that (worker’s comp) IME without another meeting. Mr. Smith said yes once they had that report. Chairman Mueller asked if they needed a vote of the Board to do that then? Ms. Fleming said yes. Chairman Mueller asked if everyone understood what was discussed. The Board members replied yes.

Chairman Mueller asked if he could have a specific motion to follow this procedure for now and in

the future.

Gary L. Smith motioned that the Board follow in future cases and this case the procedure of having all departmental reports and worker's comp reports in hand before they schedule their IME evaluations.

Jordan Boltinghouse seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated he thought that was all they could do for Mr. Kosmider and asked was that right. Ms. Fleming stated the Board needed another motion to order the IME; they needed one more motion to order it. Chairman Mueller stated they needed to have a motion to order the IME for the Local Board upon completion of the worker's comp IME.

Gary L. Smith motioned that the Board order the IME for the Local Board upon completion of the worker's comp IME.

Jordan Boltinghouse seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller asked if they had that handled? Ms. Fleming said yes, so they had waiting on the first one as a procedural thing and then they had the permission to schedule following that so that should be the two things they need.

3. Continuation of Rehearing of the Application for Disability Retirement – Jock J. Russell.

Chairman Mueller stated they were ready to go to old business; that it was again the Jock Russell matter. Chairman Mueller asked if they had the appropriate folks on the phone? Ms. Fleming said they did not yet. Chairman Mueller said to work on that while they took a break.

The Board broke at 10:57 am and resumed at 11:05 am.

Chairman Mueller stated they would reconvene the meeting and that they were under the old business portion of the agenda and they were going to do the continuation of the rehearing of the application of disability retirement for Jock Russell as requested by the Board of Trustees of PSPRS. He stated the Board would take this opportunity to listen to evidence, ask questions, deliberate and vote on the proposed course of action. Chairman Mueller stated, just as a note, Mr. Russell has waived confidentiality so that the Board may discuss his medical records in public session and he stated to the gentlemen on the phone that they were in public session but they didn't have any public present. Chairman Mueller stated he forgot to write down the attorney's name and asked him his name; Thomas Griffin stated his name. Chairman Mueller stated that they were going

to give Mr. Griffin an opportunity to present on behalf of Mr. Russell and obviously give his statements, introduce any additional exhibits, or call any witnesses. He told Mr. Griffin the table was his.

Mr. Griffin said thank you and that he appreciated it. Mr. Griffin stated “I’m not going to call any witnesses or introduce any exhibits. I’m really just referencing you know the IME report and the supplemental report with the questions answered as indicated by the PSPRS’s January 10th letter that’s what the decision has to be based on and I know that this is my third time here and Mr. Russell was there one time before me and I don’t want to reiterate anything that we have already gone over so I’m going to keep it narrow and really just focus on the two issues that Dr. Prince was asked to address in his follow up letter. The first issue was what was the cause of his PTSD and the second issue is whether or not that disability results from a preexisting condition and I think the eight questions or at least part of the eight questions that address the causation issue are consistent with Dr. Prince’s IME. He’s clear that the PTSD developed as a result of Mr. Russell’s work experiences during his second term as a Sierra Vista Police Officer. Which takes us to the second issue, whether or not that disability is a preexisting condition and I think, one important thing here from a legal standpoint is, the preexisting condition issue is irrelevant if it hasn’t already been established that there is a disability that totally and permanently prevents him from performing his duties. Essentially all other elements are met. If that’s the case, he’s still not entitled to a disability only if the Local Board actually determines that there was a preexisting condition. But if you look at Dr. Prince’s IME and his follow up questions, you know it’s clear that it’s not. He’s asked in the IME is it a preexisting condition, he says no. In the follow up questions he says it more likely than not developed after membership in the PSPRS and he says he cannot say that this incident that’s been focused on when Mr. Russell was a narcotics detective prior to 2013 created a preexisting condition. There’s not, I don’t there’s really a case that can even be argued that maybe it was a preexisting condition but even hypothetically if you could, you don’t get to that legal standard that there’s no medical evidence from the physician that the Board sent this issue to with which you can determine that there was a preexisting condition; which is the standard required by A.R.S. 38-844B3 to take away a disability that’s otherwise there. And so through two different (inaudible), I’m sorry, reports Dr. Prince has established his opinions that Mr. Russell was disabled, that that was incurred in the performance of this duties and that the disability was not the result of a preexisting condition. Because of that, Mr. Russell is again respectfully requesting that you grant his accidental disability back to I believe the date is September 1st, 2018. The reason being, that’s the first day of the month following his retirement and if you look at 38-844B, his payments go back to the first day of the month following his date of retirement. We’re happy to answer any questions that you have; either myself or Mr. Russell otherwise I don’t have anything else.”

Chairman Mueller said “Thank you Mr. Griffin. Does Mr. Russell desire to address the Board?” Mr. Griffin stated “only if you have questions” and Mr. Russell stated “no I do not.” Chairman Mueller stated “only if we have questions. I got it.”

Chairman Mueller stated “We do not have the City Attorney represented here today so he doesn’t have obviously a presentation or exhibits. Does anybody from the Board have any questions for Mr. Russell’s attorney; based on what’s been presented?” Mr. Smith stated “Not at this time.” Other Board members stated no. Chairman Mueller stated “Ok. We thank you for your case, for presenting your case Mr. Griffin and Mr. Russell thank you for being here. The Board will begin deliberations at this time. What I would like to do is, unless there is an objection from the Board, is basically go down, the form is the Public Safety Personnel Retirement System form P5-LB-8 and I guess the

effective date of that was 08/17, which is the base, which is on the bottom. And I'd just like to go over the form and ask the questions and open it up for discussion."

Chairman Mueller stated "The first item reads, 'Did the employee file the application after the disa..develop... disabling incident, not the debilitating, disabling incident or within one year of (ceasing to be an) the employee?' On the prior form dated 24 January of 2019 the answer was yes. Do we have any discussion on this item?" There were no replies. Chairman Mueller stated, "Seeing no discussion what I'm going to do is I'm going to mark a fresh form 'yes' and I'm going to assume consensus. Do we consensus at least on this? If we don't have consensus we will go ahead and have a vote." The Board nodded in consensus.

Chairman Mueller went on "Item number two, 'Did or will the employment (employee) terminate by a reason of a disability?' And the answer is on the old form is no. Do we have a discussion?" Mr. Smith stated "I think that, I think that should be a yes." Ms. Fleming asked "You think it should be changed to yes?" Chairman Mueller asked "Why?" Mr. Smith stated "It's obvious from all the reports, particularly the IME, that there was, there is a disability that exists." Chairman Mueller stated "This is where I'm a little confused I guess. I don't think he gave the initial, and correct me if I'm wrong on the record, did he in fact give the, did he file, did he quit and give notice saying he was quitting because of disability or did that come after the date he stopped being an employee of the City?" Ms. Fleming answered "Correct. He gave notice that did not indicate disability; it was to pursue other interests. That's what his..." Chairman Mueller stated "Ok. So at the time of, the way I read this, at the time he terminated he did not give disability as a reason. That came up within one year or whatever the standard was." Ms. Fleming stated "Correct." Mr. Smith answered "That's correct. I do recall that". Chairman Mueller stated "So in my mind, our answer should be no. Is that.. jive with everybody's? (Board members shook their heads in agreement). Ok, so rather than, rather than, actually what I'm going to start doing is I'm going to ask for a motion for item number two to be marked no. Can I get a motion?"

Barbara L. Fleming motioned that the Board mark 'Did the employee terminate by reason of disability' as no.

Jordan Boltinghouse seconded the motion.

VOTE: 4 to 1 to approve. Board member Gary L. Smith was opposed.

The motion carried.

Chairman Mueller stated "Item three is 'Did employment terminate based on a disciplinary, was it based on a disciplinary issue?' and the answer to that is clearly no by the evidence. Can I have a motion to approve no on item number three?"

Jordan Boltinghouse motioned that the Board answer no for question three.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated “Item number four deals with the DROP which is not applicable in this case so we can move on to item number five.”

Chairman Mueller stated for item number five “Was the employee still working a position within their job classification that the Local Board considers a reasonable within, excuse me I have to learn how to read here again. Is the employee still working in a position within the job classification that the Local Board considers a reasonable range of duties position? And the answer to that before was no and it appears to me that that is, also remains the same. May I have a motion to approve item number five as no.”

Gary L. Smith motioned that the Board answer no for question five.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated “We now go on to item number six, ‘Has the employee refused a position within their job classification that the Local Board considered a reasonable range of duties?’ and number six should fairly clearly be no. Any discussion?” No replies from the Board. Chairman Mueller asked “Can I have a motion that number six should be no.”

Jessica Ferrel motioned that the Board answer no for question six.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated “We now move to item number seven, ‘Did the injury or condition occur prior to the current PSPRS membership date?’ and from the physicians report I think we have to conclude almost that the answer should be changed to no. Any discussion?” Mr. Smith stated “I don’t agree with that.” Chairman Mueller said “Ok.” Mr. Smith stated “I think the answer is yes. In response to question seven I’m steadfast in the answer yes. The membership dates eligible for consideration in this application are February 11, 2013 through February 7, 2018. Mr. Russell did have prior PSPRS time of February 25, 2002 through March 30, 2010 however, he cashed in that time upon termination. I am relying on the following evidence. Upon my review of the IME report, I noted:

“On page three, paragraph three, of the IME report, Dr. Prince notes that when Mr. Russell was a narcotics detective and working with the Drug Enforcement Administration *‘he had a very close brush with death when armed cartel members were approaching his hidden position and coming from the right. This became an experience that when almost a hallucinatory repetitive experience over the next years when he had an intuitive sense that something coming from the right would cause grave danger; the sense of impending doom’*. That was quoted from his report. The IME report indicated Mr. Russell was hired by Sierra Vista PD in 2002, spent two years in patrol,

then was a narcotics detective for the next six years. Based upon this information the DEA incident would have occurred between 2004 through 2010, occurring prior to Mr. Russell's current PSPRS membership date."

"On page three: paragraph four, Dr. Prince wrote and I quote *'Two years ago, started experiencing daymares, that is bad dreams, something threatening coming and this was again this experience coming from the right he had in narcotics six years prior. Then he would hear a bike derailing from the right on four separate occasions, again looked around, nothing happening in objective reality, but this was his kind of hallucinatory experience.'*"

"On page four, paragraph one of the IME report, Dr Prince made the following notation: *'The therapist said he needed medications more than he needed individual therapy. Intrusive memories would occur if triggered or if he was talking about the situations he had encountered. He would still have that experience, the impending doom, the impending doom experience coming from the right.'*"

"On page four, paragraph three, in the IME report in the Mental Status Evaluation section, Dr. Prince wrote *'He reports distortions of perception, hearing a bicycle clicking noise, having the sense that something dangerous is coming at him from the right side.'*"

"In the Diagnosis Section of the IME report on page four, in the last paragraph, Dr. Prince wrote *'Since the suicide of a DUI whom he had driven home a short while before this gentleman took his own life, Mr. Russell has been plagued with symptoms that qualify for the diagnosis of post-traumatic stress disorder. He had experienced a sense of impending doom and had auditory perceptual disturbances from two years prior, but after the suicide, the symptoms intensified.'*"

"In the Diagnosis Section of the IME report on page five, in paragraph four, Dr. Prince wrote, *'He has flashbacks where he hears police radios when not around and gets the sense of being threatened from the right that repeats itself over and over again. He has intense or prolonged psychological and physiological distress when reminded.'*"

"During August of 2020, our Board received a written addendum to the IME report from Dr. Prince. This is in response to our Board's request for some clarification regarding his original report. The addendum noted for our Board question one, which asked whether the DEA incident was a substantial contributing cause of Mr. Russell's PTSD, *'The incident in question had a profound effect on Mr. Russell as evidenced by his repeated reporting of the experience to many interviewers as well as the significant nature of his psychological response to the experience, including an intense sense of personal vulnerability and impending doom. This incident may be a contributing factor to the development of his PTSD, even if actual symptoms of that condition did not fully express themselves till years later. His PTSD symptoms derive from all the traumatic experience he encountered during his time on the police force. The incident in question was one of the experiences.'*"

"The initial IME report contains three mentions of the DUI event and it contains a few non-specific comments about other incidents which impacted Mr. Russell over his years of service, leading me to conclude those were not a substantial contributing cause of his condition. However, the many references to impending doom from the right is compelling evidence in regards to

answering Question seven. The IME evaluation seems to establish that the DEA event is the substantial contributing cause of Mr. Russell's condition."

"As part of the process with the Industrial Commission of Arizona claim, Mr. Russell participated in an examination. From page fifteen, paragraph six, in the report containing the results of this examination, quote *'He described his most traumatic experience as being caught unawares when conducting surveillance on criminal activity. He was filled with fear and helplessness, and thought he was going to be killed'*, unquote."

"I have relied on the above evidence to conclude that Mr. Russell's condition occurred prior to the current PSPRS membership date. My response to question seven is yes."

Chairman Mueller stated "I have a question for you. What's the date of the doctor's statement? The initial doctor's statement on there." Mr. Smith asked "You mean the initial IME?" Chairman Mueller responded "yeah". Mr. Smith stated "I don't know." Chairman Mueller stated "Well I think you're going to find it's, it was not prior to, it was not prior to him leaving; the first time." Mr. Smith stated "No the IME exam was after." Chairman Mueller asked "It was after he left the second time, correct?" Ms. Fleming answered "Yes." Chairman Mueller stated "See and that's the thing, I agree with everything you say Gary. I don't have a problem with what you said. The thing I look at when I read this question, did the injury occur, condition occur prior to the current PSPRS membership date. This is not a, as we discussed, it was discussed in the past, this is not a I went out and broke my leg or I got shot or I had to have surgery or whatever where it's a one time incident. And this is where we're all struggling. The actual diagnosis came, and that's what I'm looking for, is the actual diagnosis came after he quit the second time. And before that, it was not a certified medical condition. He was having problems, yes; there could be other issues. But the PSPRS, PTSD, basically as a result of, accumulated result of all those things you mentioned but really wasn't diagnosed until after he quit the second time. And that's kind of what both doctors have said in their statements. So in my mind, it did occur during, during his last stint with us. And also, contributing factors also occurred in the first part. And that's the struggle we have is we can't pinpoint a date and say here's the date where he had, he suffered from the effects of the PSPRS or PTSD." Mr. Smith answered "Well then, that seems to me that Mr. Russell then has not proved his case. If we can't answer that as you're saying, then he hasn't proved the case to us. Therefore, it, you know, the reports indicate yeah it was some accumulative but over and over again we see the reference to this DEA incident to me that is a substantial contributing cause. Perhaps not the only one but it is substantial. The other issues may have contributed but I believe this was the substantial cause and it started prior to the current service we're looking at. Unfortunately for Mr. Russell, it happened in the previous service before the current service. That's when I think it started; just appears over and over again in all the documentation we have reviewed. Even the IME talks about it many more times than any other causation. Therefore, to me, it is a contributing substantial factor and it was before the current time of service. Mr. Russell just hasn't proved that that's not the case." Chairman Mueller asked "Any other discussion guys, on this one?" No Board member said anything. Chairman Mueller then stated "I don't see any more discussion so I would ask for a motion to either yes or no on item number seven.

Gary L. Smith motioned that the Board vote yes to question seven.

Jordan Boltinghouse seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated “So the answer is yes as marked.”

Chairman Mueller went on “Item number one was, excuse me, item number eight, “Was the injury or condition the result of an event incurred during the performance of the employee’s duty?” And on the prior form we voted no. Do I have any comments or questions; discussion? Either yes or no?” Mr. Smith replied “Just a second. I agree the answer should be no. I would like to read my reasons for that into the minutes.” Chairman Mueller stated “Please.”

Mr. Smith went on “In regards to question number eight on the Accidental Disability Questionnaire, ‘Was the injury or condition the result of an event incurred during the performance of the employee’s duty?’ the Board’s second question for the clarification to Dr. Prince was: *‘On page 7 of your January 18, 2019 report, you state that “The straw that broke the camel’s back, that is the experience that brought symptoms in a major far-reaching way was the suicide of the DUI he has arrested and brought back to his home shortly before the suicide” This statement indicates that Mr. Russell experienced symptoms of PTSD prior to the DUI incident, and that the DUI incident exacerbated these symptoms. Please state when Mr. Russell first experienced any symptoms of PTSD. Please explain the basis for your response.’*”

The response of the IME was, quote, *‘I have no significant knowledge of when Mr. Russell first started experiencing symptoms of PTSD. He did report however that two years before I interviewed him, which would be approximately early 2017, he started to experience distressing symptoms’*, unquote. If Dr. Prince can’t identify when Mr. Russell’s condition started, I interpret this to mean it is unknown if it started from an event during the performance of his duties during the current PSPRS membership date or prior to the current membership. Additionally, the DEA event and evidence I have previously described as the substantial contributing cause of Mr. Russell’s PTSD did not occur in the current PSPRS membership date. I have relied on the above evidence to conclude that Mr. Russell’s condition was not incurred during the performance of his duties and occurred prior to the current PSPRS membership date. Therefore, my response to question number eight is no.”

Chairman Mueller asked “Any other discussion on this item? I just wanted, I just want to say in my mind it’s very difficult in this type of, this PTSD issue when that, when that occurred. And it’s not really clear from both doctor’s statements when I read through them, that that is the fact, any further defined. So it’s very difficult and this is one of the problems with the way the form was written when you’re dealing with psychological episodes so it makes it extremely difficult to pick out a point in time. Again, I go back and look at the doctor’s statements and when they, when they actually diagnosed the PTSD just like on the prior, just like on the prior question. Had he not been an employee in this case and been involved in those situations, whether it was the first time or the second time, the accumulative psychological damage if that’s what we want to call it, occurred while he was an employee in my mind. So, any further discussions?” Mr. Smith stated “You bring up very good points Mayor. Again I’m just, I don’t feel Mr. Russell has shown us that his PTSD symptoms started while incurring during the current service, during the current service period. Unfortunately, PTSD symptoms really are self reported in many cases.” Chairman Mueller stated “That’s the dilemma that presents us; it is in fact.” Mr. Smith stated “So in looking at the evidence

we had, I'm just, you know, the IME clearly can't tell us when this started." Chairman Mueller asked "Any other discussion? Did I hear something from you there Barbara?" Ms. Fleming stated "No, I just will add that in the, to his supervisors he actually, in the documentation, it does state that when they inquired regarding this event that he stated no, this event had not caused a problem." Mr. Smith asked "Which event is that?" Ms. Fleming answered "The event of the DUI, suicide." Mr. Smith asked "The DUI?" Ms. Fleming indicated yes. Mr. Smith said "ok." Ms. Fleming said "Yeah and we did hear that from them; that he did state no." Chairman Mueller asked "Any further discussion? (the Board was silent) Hearing none, we'll go to item number eight. We'll have a, can I get a motion for either yes or no on item number eight?"

Jessica Ferrel motioned that the Board vote no to question eight.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated "I'll mark the item no on our current sheet. I'll also make sure that Gary, your statements need to be written properly and complete with Shanna on his, on the, in the record so this will obviously go back to the Board for review. So basically we have decided to keep the form as requested. So we've done the hearing and I guess that results in a denial of the appeal. So the next actions, and correct me if I'm not wrong Mr. Attorney, is we refile the form and with all the meeting minutes and forward those to the Board of Trustees for their review." The attorney indicated yes. Chairman Mueller stated "Yes ok, so any other, any other before, before we enter to the call to the public? Is there any other discussion on this matter before the Board?" Ms. Fleming stated "I think, I have one question, do we need a motion to include the, those with our answers? I think last time we made a motion to include our narrative with these (Form P5-LB-A)." Chairman Mueller stated "So I'm not sure what your asking." Ms. Fleming stated "We should make a motion to include our narrative with the form, the Accidental Disability Questionnaire." Chairman Mueller stated "Ok. Here's what we're going to do. I'm going to ask for a motion to include the minutes of item three, the old business section of today's meeting which is the hearing to be attached to the Public Safety Personnel Retirement System Form P5-LB-A for review by the Board of Trustees of the PSPRS." Mr. Boltinghouse stated "I'll second that". Chairman Mueller stated "You can make the motion". Mr. Boltinghouse said "Oh, I'll make that motion."

Jordan Boltinghouse motioned to attach a narrative to the minutes and to Form P5-LB-A.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Mueller stated "So that will be done. Ok. Any other comments to be done with this item?" Ms. Fleming stated "I think we still need a, and Steve (Coleman) can chime in. I think we still need a motion to approve or deny. Were you able to hear that Steve?" Chairman Mueller asked "deny what?" Mr. Coleman stated "Well based on answering the questions, it's a denial because he doesn't

meet criteria but I think probably it couldn't hurt just to clarify so the record's clear; to make that motion." Chairman Mueller stated "Ok. Alright. So I'll ask for a motion for the denial of the application or the questionnaire, whichever one it is."

Gary L. Smith motioned for denial of the Disability application (for Jock J. Russell).

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

CALL TO THE PUBLIC

Chairman Mueller stated "Now we can go to call to the public. Any members of the public that wants to address us today?" Mr. Griffin stated "This is Thomas Griffin and I just had a question real quickly. Will I get the form you went over and answered the yes or no questions; will that be sent to me along with an official denial letter?" Chairman Mueller stated "Yes." Mr. Griffin said "Ok." Chairman Mueller stated "We can certainly do that for you." Mr. Griffin stated "Ok, I appreciate it. And are we good to get off the phone?" Chairman Mueller stated "Yes sir." Mr. Griffin stated "Ok, thank you." Chairman Mueller stated "Thank you."

Chairman Mueller stated "Call to the public, I see no members of the public here. There's no call to the public."

ADJOURNMENT

There being no further business to come before the Board, Chairman Frederick W. Mueller adjourned the meeting at 11:38 a.m.

Mayor Frederick W. Mueller, Chairman