

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

CALL TO ORDER

Chairman Gregory Johnson called the regular meeting of the City of Sierra Vista Police Pension Board to order on May 26, 2021 at 9:00 a.m., in the City Manager Conference Room, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

ROLL CALL

MEMBERS PRESENT: Councilperson Gregory Johnson, Chairman
Gary L. Smith, Board Member
Barbara L. Fleming, Secretary
Jordan Boltinghouse, Police Corporal

MEMBERS ABSENT: Jessica Ferrel, Police Officer

OTHERS PRESENT: Shanna Melanson, Human Resources Analyst

ACCEPTANCE OF THE AGENDA

Gary L. Smith motioned that the agenda be accepted as written.

Jordan Boltinghouse seconded the motion.

VOTE: Unanimous.

The motion carried.

NEW BUSINESS

1. Application for Retirement – H. Allan Foote

Secretary Barbara L. Fleming advised the Board that H. Allan Foote is applying for retirement from the Public Safety Personnel Retirement System.

Jordan Boltinghouse motioned that H. Allan Foote's application for retirement from the Public Safety Retirement System be approved effective May 31, 2021, with a benefit of approximately \$2,337.93 per month.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

2. Application for Retirement – Lori Lee Burdick

Secretary Barbara L. Fleming advised the Board that Lori Lee Burdick is applying for retirement from the Public Safety Personnel Retirement System.

Gary L. Smith motioned that Lori Lee Burdick's application for retirement from the Public Safety Retirement System be approved effective June 21, 2021, with a benefit of approximately \$3,239.50 per month.

Jordan Boltinghouse seconded the motion.

VOTE: Unanimous.

The motion carried.

3. Application for Retirement from the Deferred Retirement Option Plan (DROP) – Jeremy R. Wolfe.

Secretary Barbara L. Fleming advised the Board that Jeremy R. Wolfe is applying for retirement from the Public Safety Personnel Deferred Retirement Option Plan (DROP).

Jordan Boltinghouse motioned that Jeremy R. Wolfe's application for the Deferred Retirement Option Plan be approved effective May 31, 2021, with a benefit of approximately \$4,893.52 per month.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

4. Application for Accidental Disability Retirement – Peter J. Van Wesep.

Secretary Barbara L. Fleming advised the Board that Peter J. Van Wesep has worked for the City of Sierra Vista as a Firefighter for eight years and as a Police Officer for almost six years and has now applied for an accidental disability retirement. If approved, the calculated monthly benefit would be approximately \$2,960.95 per month.

The Board discussed the application. Mr. Smith asked if the applicant signed a confidentiality waiver to which Ms. Fleming replied that he did. Mr. Smith also asked if the medical and other

documentation submitted met the statutory pre-requisites? Ms. Fleming replied that she did not feel that it had. Chairman Johnson stated he reviewed the file and he feels the treatment that Mr. Van Wesep has been seeking is not adequate; he's only been seeing the doctor for three months. He stated that Mr. Van Wesep has seen a Medical Doctor, a Physician's Assistant and a Licensed Clinical Social Worker and noted that he has not seen a Psychiatrist or a Psychologist. Chairman Johnson stated he didn't think Mr. Van Wesep's case was ready.

Jordan Boltinghouse inquired whether the Board had received all medical documents. He was informed that there was no updated medical information submitted by the Licensed Clinical Social Worker; that they only had what the applicant had submitted with the last visit being May 5, 2021. Mr. Boltinghouse stated his concern is that they don't have all the medical documentation from those he has seen on top of (needing to see) a Psychiatrist or Psychologist. Chairman Johnson stated he felt it should be mandatory that he see one or the other if not both. Ms. Fleming stated that the Board may need to consult with its attorney to make sure they got a DSM-5 from a Psychiatrist before the Board sent him to an IME. She stated that they needed to confirm that they had the right to make that mandate. She explained the DSM-5 is the current standard.

Ms. Fleming informed the Board that a large quantity of medical documentation had come in the day before and that he (Van Wesep) moved this very quickly but, in order to meet their requirement to have an initial Board meeting and consider the next move they put this application on the agenda.

Ms. Fleming noted that she could not clearly discern from the documentation that this was a work-related PTSD. She noted that there were references to cumulative traumatic events and that there was a reference to a car accident involving a child (while a Police Officer) as well as references to his Firefighter days and wondered if this could be beyond the statute of limitations to file. She stated where she has a concern is that the doctor as well as the claimant, neither mention workers comp and no claim was ever filed so that leads her to believe the Board is not ready at this time to move this forward. She understands that it could be cumulative but that there are no references to any specific circumstances. Additionally, in a conversation she had with a Police Commander, it was clear that everyone was taken off guard that there were any incidents, he didn't reach out for any of the resources that the City has, and after this came to light, one of the Commanders engaged Mr. Van Wesep and asked about incidents and he would not state any. Mr. Van Wesep just stated that they were from when he worked at Fire; which would have been more than six years ago. Ms. Fleming also stated that the Commander tried to refer him to peer support which he refused. That raised concerns for her based on the documentation and the due diligence the Board is required to do as to whether this is an appropriate filing for disability, accidental versus a regular medical retirement. She mentioned there are indicators in Mr. Van Wesep's background investigation that there are pre-existing issues with non-disclosure (from Mr. Van Wesep) that would not be directly PTSD but would create the very same symptoms. She mentioned this was not everything she found but that there were areas that raised some concerns for her; that they are not ready to move this forward. She stated they needed further information in order to make an informed decision. She stated there is very little in the file as far as specialists and that he went to the doctor with a wrist injury back in July 2020 and there is a reference to PTSD then and he's referred to counseling of which he did not do according to the medical records. They also did not remove him from working then (July 2020) nor did they recently (when he started seeing a doctor in February 2021) when they gave him a return-to-work date of May

23, 2021 and he had resigned prior to that date. Ms. Fleming stated with all that being said, from what she gathered from his documentation, the Board is not ready to move forward. Chairman Johnson agreed and asked if there was a way the Board could require him to see a Psychiatrist or a Psychologist? Ms. Fleming stated she believed the Board could request that but what she recommended, that there has been a lot of legislative changes to PTSD that have been handled recently, that her recommendation was that the Board either request some specific things and they outline them or that they come up with some things the Board would like to see then request that the Secretary (herself) gather what the Board would like to see and she will clear it with the Board Attorney who can give them advice. She stated she was surprised that an ER visit with a wrist, she believed two visits with a PA (Physician's Assistant), a visit with one medical doctor and a visit with another medical doctor gave him a lifetime diagnosis. Each visit listed face to face time with the patient; 15 minutes and 25 minutes. One of those visits was for Covid and the wrist injury so she's thinking they made a diagnosis for a lifetime in about an hour total time while discussing the Covid and wrist issues as well. She stated she realized he got treatment or received counseling from a Licensed Clinical Social Worker (LCSW) but that she wouldn't say a LCSW is able to give treatment because they are not a doctor. As far as the doctor reports, there is nothing specific. They are as generic as the other documentation. Chairman Johnson mentioned he noticed they were playing around with the medications as well. Ms. Fleming said yes, and the Board wouldn't know if he gets a medication, would longer treatment help. Also, she noted the referral to the LCSW was not done by the doctors, it was done by the City's Employee Assistance Program (EAP) who Mr. Van Wesep didn't contact until around February or March 2021. She stated the Board did not have a report from the EAP to know what he was stating to them. She stated a Social Worker should not be making a diagnosis, yet she does in the documentation which Ms. Fleming stated maybe she wasn't wrong in doing so, in giving an opinion, but it's not an actual diagnosis. So, to sum it up, the diagnosis has been made in an hour, not two and no details given of past medical, where treatment was sought and there are notes that he is making vast improvements and can return to light duty and things like that but all of a sudden he is off and gets released to go back to work and Mr. Van Wesep doesn't agree with that and states he doesn't think he can go back so they give him a light duty release and again he says he can't go back to work in one week, two weeks, four weeks so they just noted they would work with the City to get a permanent disability. Ms. Fleming stated the Board needs more.

Mr. Boltinghouse stated that maybe he didn't hear the answer but was the Board allowed..., he knows they can make a recommendation to see a Psychiatrist or Psychologist, but is that something they can require? Mr. Smith stated that the Board members needed to remember that the burden of proof is on Mr. Van Wesep to prove the case to the Board; not for the Board to tell him what he needs to do. Chairman Johnson stated that was a good point. Mr. Smith said it seemed to him that they had two choices; either deny or continue the application. Ms. Fleming said that if the information was insufficient to appoint an IME, then the Board can take action to deny the application and then all information used to render that decision would need to be forwarded to PSPRS for review. She stated she believed they could also do a continuation on the application and request additional information from Mr. Van Wesep. She said they could deny, and he could get more information to submit and appeal the denial. They can do a continuation and tell him there is insufficient medical or say there is insufficient medical, and this is what the Board wants to see but she recommends they clear that with the Board Attorney, or they just deny the initial application saying there is insufficient evidence; those she believes are the three options. Chairman Johnson asked what Mr. Boltinghouse's thoughts were. Mr. Boltinghouse stated the biggest problem is that the Board doesn't have all the medical documentation yet, even

from the three people he saw, so with that alone the Board is still lacking documentation and some of the documentation was just received the day prior; so that alone is enough to say continuation. Chairman Johnson agreed and asked Mr. Smith his thoughts. Mr. Smith stated he thought a continuation as he hasn't even had the time to look through the documentation. Chairman Johnson told Mr. Smith that it's pretty thin on the diagnosis. Mr. Smith said if the Board was missing documentation and didn't have it all then certainly a continuation was in order and to let Mr. Van Wesep know they were still waiting for more documentation coming in and specifically they could cite the therapist whoever that person was. Mr. Smith said he thought it would be premature to deny the application since he hasn't had a chance to look at the documentation and that he didn't know if the other Board member (Ms. Ferrel who was absent) would want to look at it as well. Chairman Johnson stated that it was Mr. Van Wesep's burden so if the Board starts making suggestions...he didn't know; he said it was his burden. Ms. Fleming stated she could agree with that and again the Board doesn't know can they mandate a certain doctor. Mr. Smith stated he didn't think the Board should and she agreed. Mr. Smith stated Mr. Van Wesep is the one filing the claim.

Mr. Bolting house said that Ms. Fleming mentioned some new legislation since the last PTSD applicant the Board had and was there anything the Board should be briefed on. Ms. Fleming stated no; that it's just new legislation so the Board doesn't have case law; that she doesn't know how some of it will be interpreted (in the courts). Ms. Fleming stated there is some differences in the training that PSPRS is giving and what the Board Attorney is experiencing.

Chairman Johnson asked to entertain a motion with respect to Mr. Van Wesep's application for a Disability Retirement.

Gary L. Smith made a motion that the Board continue the case; the Board does not have all the documentation.

Gregory Johnson seconded the motion.

VOTE: Unanimous.

The motion carried.

REQUESTS OF THE BOARD

None

ADJOURNMENT

There being no further business to come before the Board, Chairman Gregory Johnson adjourned the meeting at 9:24 a.m.

Barbara L. Fleming, Secretary