

CITY OF SIERRA VISTA  
POLICE PENSION BOARD MEETING  
June 29, 2021

**CALL TO ORDER**

Chairman Gregory Johnson called the regular meeting of the City of Sierra Vista Police Pension Board to order on June 29, 2021 at 2:34 p.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  
Jessica Ferrel, Police Officer

MEMBERS ABSENT: Jordan Boltinghouse, Police Corporal

OTHERS PRESENT: Shanna Melanson, Human Resources Analyst  
Matthew R. Kosmider, Applicant

**ACCEPTANCE OF THE AGENDA**

Jessica Ferrel motioned that the agenda be accepted as written.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

**NEW BUSINESS**

1. Review of Physical Examinations

Secretary Barbara L. Fleming advised the board that the physical examination pre-existing reports for William Goodman, Jeromy McGee and Peyton Maxwell need to be acknowledged.

Gary L. Smith motioned that William Goodman's Pre-Existing Condition Report dated May 21, 2021 with two pre-existing conditions, Jeromy McGee's Pre-Existing Condition Report dated June 4, 2021 with no pre-existing conditions and Peyton Maxwell's Pre-Existing Condition Report dated June 18, 2021 containing one pre-existing condition be acknowledged effective June 29, 2021.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

2. Application for Disability Retirement – Matthew R. Kosmider.

Chairman Johnson opened with the next item of business was for Matthew Kosmider's disability retirement application and that he was present and thanked him for attending. He asked for a staff report. Ms. Fleming stated "Matthew Kosmider was hired as a police officer for the City of Sierra Vista on June 4, 2018. 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 survival spine injury to his neck that required surgery; two more surgeries followed. His claim was accepted by Workers Comp. The Board sent him for an IME which has been completed. If approved for an accidental disability he would receive approximately \$2,486.53 per month."

Chairman Johnson asked if there was any further comment. He questioned "This is where we go through the questionnaire responses? Is this the point where we do this?" Ms. Fleming stated they needed to go to discussion. Chairman Johnson asked Gary if he had any questions. Mr. Smith asked "How are you doing now Matt?" Matthew Kosmider stated "Not great. I'm currently a stay-at-home dad; my wife found a job so I'm staying at home with the kids now and I'll start back up in school in August and kind of figure out another route through life." Mr. Smith asked "Have you done, completed all your medical treatments?" Mr. Kosmider replied "I have. So I've done over a year's worth of physical therapy at this time. There's one additional plastic surgery they considered for trying to make the scar look prettier but other than that there's no other medical procedures that they feel could make an improvement. It's just trying to figure out a quality of lifestyle going forward; how to reduce the amount of overall pain." Mr. Smith asked "Are you on meds for that or treatment for that?" Mr. Kosmider replied "Yes, I'm on an nsaid which is basically meloxicam which is a long term Ibuprofen kind of thing and I have a muscle relaxer that I take as needed. I'm trying to avoid anything more than that. It's not going to be a short term thing; it's going to be the rest of my life so I'm trying to minimize the amount of things I'm taking." Mr. Smith said "Ok."

Chairman Johnson asked "Are you still undergoing physical therapy of some sort?" Mr. Kosmider replied "No, we completed the last set which was about five months of physical therapy back in I think around April and they didn't recommend any further; they just kind of said continue with the activities that I've been doing through physical activity; continue it on my own." Mr. Johnson said "Ok. So you are doing certain exercises to..." Mr. Kosmider stated "Yes." Mr. Johnson said "Ok, alright you know because sometimes an expert will say we don't need to see you anymore and the patient steps back and says wait a minute, I don't think I'm entirely whole yet." Mr. Kosmider stated "Well I definitely don't think I'm entirely whole yet but I think I'm put back together as well as they're going to get me back together. I'm continuing to strive towards figuring it out."

Ms. Ferrel stated "Matt I have a question for you. Going through your file you have an AZ Post medical history questionnaire that was for preemployment with TPD (Tucson Police Department) and you answered yes under question number forty one, have you ever had or been advised to

have an operation.” Mr. Kosmider stated “That was wisdom teeth.” Ms. Ferrel stated “Wisdom teeth. Ok, because it doesn’t have any space to actually; for you to go into detail under that so I was just curious as to what that was.” Mr. Kosmider stated “Prior to police work the only surgery I’ve ever had was the wisdom teeth.” Ms. Ferrel said “Ok. And I know you were in the military; do you have any medical history with the military? At all?” Mr. Kosmider stated “No.” Ms. Ferrel said “Ok. That’s all.”

Chairman Johnson asked “Any other questions from the Board? Hearing none, shall we go through the questionnaire?”

“Question number one, ‘Did the employee file the application after the disabling incident, or within one year of ceasing to be an employee?’ yes or no. Staff report?” Ms. Fleming stated “Yes, Mr. Kosmider did file the report. Once it was determined that...so he had had the injury, he had had surgery, he had been seen again and went in for another surgery and physical therapy and the doctor made the determination that they were not going to be able to get a permanent correction to be able to do this type of job that requires physical ability to do the job, he did then go ahead and file for that. It’s a little different because he had an ongoing because it was a Workers Comp claim throughout the whole process. So he never had it not filed in one capacity or another from the get go. So the answer to that one would be a clear yes.” Mr. Johnson stated “Ok, that would be a yes. I will entertain the motion that the employee did file the application after the disabling incident, or within one year of ceasing to be an employee; the response is yes and I’ll entertain a second.”

Chairman Johnson motioned that the Board answer yes for question one.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated “Number two, ‘Did the employee terminate by a reason of a disability?’ Ms. Fleming?” Ms. Fleming stated “Yes, he did terminate by reason of disability; he exhausted his FMLA leave, let’s see the Workers Comp and did not have any work release to return to do this type of work and therefore was left with the situation. Technically the resignation came in when he could no longer physically do the job.” Chairman Johnson said “Ok, so the Local Board response to that particular question is yes.”

Chairman Johnson motioned that the employee did terminate by a reason of a disability and asked for a second.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated “Question number three ‘Did employment terminate based on a

disciplinary issue?' yes or no." Ms. Fleming stated "No, there were no disciplinary issues."

Chairman Johnson motioned that employment did not terminate based on a disciplinary issue and asked for a second.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated "Number four 'If the member's period of DROP has ended, if applicable did (or will) the employee terminate by a reason of a disability?' yes or no." Ms. Fleming stated "No, he is not a member, he's not in the period of DROP." Chairman Johnson said "Ok, so the answer is no. Wait, is that the correct answer?" Ms. Fleming stated, "Yes sir." Chairman Johnson said "Ok."

Chairman Johnson read question number four and stated the answer was no and he asked for a second.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated "Number five 'Is the employee still working a position within their job classification that the Local Board considers a reasonable range of duties?'." Ms. Fleming stated "He is not. He did not have a release to return work in that capacity so he resigned the position." Chairman Johnson said "Ok, so the answer is no.

Chairman Johnson read question number five and stated the answer was no and he asked for a second.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated "Question number six, 'Has the employee refused a position within their job classification that the Local Board considered a reasonable range of duties?'." Ms. Fleming stated "We do not have a position within the PSPRS requirements that we could offer in that classification because it is a PSPRS and you must be able to physically be released to do the job so there was no option so the answer to that question would be no." Chairman Johnson said "Ok."

Chairman Johnson read question number six and stated the Local Board response was no and he

asked for a second.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated “Number seven, ‘Did the injury or condition occur prior to the current PSPRS membership date?’” Ms. Fleming stated “The employee was injured during the current PSPRS membership date.” Chairman Johnson said “Ok. So the answer is yes.” Ms. Ferrel asked “Is that correct or should it be a no?” Mr. Smith said “No it wasn’t.” Ms. Fleming stated “It should be no; did the injury or condition occur prior.” Chairman Johnson stated “I’m sorry. I mis-spoke.”

Chairman Johnson stated “the injury did not occur prior to the current PSPRS membership date” and asked for a second.

Jessica Ferrel seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated “Finally number eight, ‘Was the injury or condition the result of an event incurred during the performance of the employee’s duties?’” Ms. Fleming stated “Yes, the injury was a result of a pursuit of a suspect that was tackled in the line of duty.” Chairman Johnson said “Ok.”

Chairman Johnson stated “So number eight was that the injury did incur as a result of an event that occurred during the performance the employee’s duties.” He asked for a second.

Gary L. Smith seconded the motion.

VOTE: Unanimous.

The motion carried.

Chairman Johnson stated “We just need...I would like to entertain a motion that we approve the disability.”

Gary L. Smith motioned that the accidental disability retirement application for Matthew R. Kosmider be approved.

Jessica Ferrel seconded the motion.

Chairman Johnson asked if there was any discussion. Mr. Smith stated “Yes I have some discussion. I based my decision on the results of the Workman’s Comp report; ‘not able to resume

the duties and return to work. Injuries will exist for life'. And we have the same results in the IME report; the doctor says 'the patient is not allowed to do any type of work except sedentary work and I would restrict him from lifting anything greater than 10 pounds; this is a permanent lifelong lifting restriction. I would also have him avoid any situations where he is involved in any potential arrests or restraints of suspects or non cooperative citizens'. It's very obvious that this disability is long term and not correctible based on these two reports that we've been presented. So therefore, I believe it's a disability approved injury." Chairman Johnson thanked Mr. Smith and asked if there was any further discussion.

Ms. Fleming stated "I agree it's an accidental injury which occurred which is going to have a lifetime limit of his physical abilities. It doesn't prohibit him from looking at other options career wise but it does limit him from this field specifically for the rest of his life and any other field that would require physical requirements to do the job and therefore, I do believe it is a physical situation that was caused by an injury that is to be considered permanent."

Chairman Johnson stated "Yes I was impressed with the fact that he has sought treatment properly. He's gone through probably excruciating operations to try to get back to duty and is unable to do that. I know that being a Police Officer is a dedicated job. It's not an easy one. Given today's environment where a Police Officer can snap like that and end up in a physical fist to cuff; we've seen this on the national TV. And I'm just sorry this has happened to a good officer because I reviewed his entire file; the big thick ones there and I'm just sorry that he's unable to continue to serve as he was before. So I think it's an accidental disability injury and it's one of those things that he cannot come back to work."

Ms. Fleming stated "He worked through...the outside when he was in the actual recovery period from the surgeries, he returned to work light duty and he performed background checks and various other duties. I think all of our hopes, obviously inclusive of his, and all of us was that we were going to be able to get this worked through. That these surgeries were going to correct the problem and that we kept him on light duty for healing and stuff; that we were going to get past this situation. I think in this situation we have an unfortunate situation where the surgery unfortunately didn't correct it and we ran through everything that we could possibly do under these circumstances. He stayed with it until the end until we ran out of resources; we ran out of options to continue him in this field. So I agree with.... you said we lost a..... It's an unfortunate loss, it's an unfortunate circumstance for him going forward and for us and the community and everyone." Chairman Johnson agreed and asked Ms. Ferrel if she had anything. She said "No I don't. Thank you." Chairman Johnson moved to the all in favor vote.

VOTE: Unanimous.

The motion carried.

### **CALL TO THE PUBLIC**

Chairman Johnson stated there was no public other than Matt (Mr. Kosmider). Mr. Kosmider stated "Thank you guys very much. I really appreciate it." Chairman Johnson stated "We're not doing you any favor, believe me." Mr. Kosmider stated "It's just an interesting mental thing to wrap your head around." Chairman Johnson asked if there was any further discussion of the Board.

**ADJOURNMENT**

There being no further business to come before the Board, Chairman Gregory Johnson adjourned the meeting at 2:57 p.m.

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Barbara L. Fleming, Secretary