



### MINUTES FROM MEETING ON JUNE 26, 2018

Chairman Smith called the meeting to order on Thursday, June 26, 2018 in the Community Room, at OPD Headquarters at 8:43 AM. There was a quorum.

#### Board Members

Jay L. Smith, Chairman  
 Jose Vicente, Vice-Chairman  
 Laurie Botts, Secretary  
 Mathew Fleury, Trustee  
 Christopher McCullion, Trustee

#### Others Present

Katrina Laudeman, Executive Director  
 Michelle McCrimmon, Deputy CFO  
 Stu Kaufman, Board Attorney  
 Randy Brown, Attorney for Officer Middleton  
 Lori Janeczek, Employee Benefits  
 Shannon Gridley-Hetz, Police Advocate  
 Austin Moore, Police Advocate (8:48 AM)  
 Jill Baxter, Court Reporter  
 Cheryl Middleton, Police Officer  
 Angela Middleton, Police Officer  
 Dolores Bracero, Police Officer  
 Shawn Dunlap, FOP  
 Luane Folse  
 Allyson Skiles  
 Rhonda Huckelbery  
 Betty Gilmore  
 G. Henderson  
 Arthur Brewster  
 Kimberly Brewster, Police Officer  
 Adriana Morales, Staff Assistant  
 Jon Zedick, Police Officer  
 Danielle Gately, Police Officer  
 Mark Canty, Police Officer  
 Bernard Moynahan, Channel 9 Photographer  
 Mark Hinson, Police Officer (8:46 AM)  
 Paul Sanderlin, Police Officer 8:55 AM)  
 Shannon Butler, Channel 9 (9:21 AM)  
 Alexandria Bozarjian, Channel 9 (9:21 AM)  
 Michele Keane, Pension Coordinator

#### 1. **PUBLIC COMMENT**

Chairman Smith asked if there was any public comment. There was none.

#### 2. **DISABILITY HEARING FOR CHERYL MIDDLETON**

Chairman Smith stated this is the time set for hearing the disability application of Cheryl Middleton. He informed everyone the hearing is being recorded and will be conducted in an informal manner but consistent with constitutional requirements of due process and equal protection.

Officer Middleton was represented by Mr. Brown and the Department was represented by Ms. Gridley-Hetz. Chairman Smith asked if Mr. Brown or Ms. Gridley-Hetz wished to have the process explained. They declined. Chairman Smith asked the subpoenaed witnesses to stand and be sworn in by Ms. Keane. Mr. Brown noted that the ninth witness, Sergeant Hinson, was running late and expected to arrive soon. Ms. Gridley-Hetz asked for the witnesses to be sequestered; Mr. Brown objected. Chairman Smith noted the entire package and all documentation submitted to the Board would be accepted into evidence, including the five notices of filing from Mr. Brown. Mr. Brown objected to a document submitted by Ms. Gridley-Hetz that summarized Dr. Homan's resume, because it violated the rule of submitting evidence ten days prior to the hearing. Chairman Smith noted the objection but allowed the document to be entered into evidence.

Mr. Brown and Ms. Gridley-Hetz both waived opening statements.

Mr. Dunlap escorted all of the witnesses to a separate room to wait. Sergeant Hinson arrived at 8:46 AM and came forward to be sworn in before joining the other witnesses.

Mr. Brown called Officer Cheryl Middleton as the first witness and she was sworn in by Ms. Keane. Officer Middleton spoke about her rank as Master Police Officer and the duties associated with her position. (Austin Moore entered the meeting at 8:48 AM.) She explained how she was injured and why she delayed seeking medical aid. Officer Middleton also spoke about the various light duty jobs she has performed while awaiting the hearing. (Officer Paul Sanderlin entered the meeting at 8:55 AM and was escorted to the room the where the other witnesses were sequestered.) (Ms. Butler and Ms. Bozarjian entered the meeting at 9:21 AM.)

A break was taken at 9:48 AM.

Meeting resumed at 10:00 AM.

Mr. Brown asked to have a timeline of jobs worked, doctors' appointments and time missed distributed to the trustees. The timeline summary of information was allowed but not entered into evidence. Ms. Gridley-Hetz objected stating it is not up to the trustees to decide if Officer Middleton was accommodated but to determine whether or not she can perform a limited duty job. She noted accommodation is made by the Police Department. Mr. Brown rested.

Ms. Gridley-Hetz asked for clarification about the fight that caused the health issues under cross-examination. Officer Middleton responded. Mr. Brown asked another question under redirection. Office Middleton then responded to questions from the trustees.

Mr. Brown called the following witnesses: Officers Danielle Bigelow Gately, Dolores Bracero, Andrew Bishop, Kimberly Brewster and Ms. Adrianna Morales, who replied to questions from Mr. Brown, Ms. Gridley-Hetz and the trustees.

A break was taken at 11:27 AM.

Meeting resumed at 11:45 AM.

Mr. Brown then called witness Officer Mark Hinson who responded to his questions. (Ms. Butler and Ms. Bozarjian left the meeting at 11:48 AM.) (Mr. Moynahan left at 11:50 AM.)

Officer Paul Sanderlin was sworn in and answered questions from Mr. Brown, Ms. Gridley-Hetz and the trustees.

The remainder of Mr. Brown's witnesses: Officer Jon Zedick, Ms. Allyson Skiles and Ms. Betty Gilmore, replied to questions from Mr. Brown, Ms. Gridley-Hetz and the trustees.

Mr. Brown rested.

Ms. Gridley-Hetz did not call any witnesses.

Mr. Brown made his closing remarks referencing Florida Statute 112.565 and citing the responsibilities of the Board. He noted that Dr. Stewart's IME stated that Officer Middleton is incapable of performing her duties as a police officer and she is totally and permanently disabled. He added that Officer Middleton has done her duty as a police officer for nineteen years and asked the trustees to grant her a line-of-duty disability. Mr. Brown rested.

Ms. Gridley-Hetz acknowledged Officer Middleton is a good police officer and noted the Department would like to keep her on the force and continue to benefit from her 19 years of experience. The Chief of Police has made an offer of a limited duty position without loss of pay or benefits and the Department will make any accommodations necessary for Officer Middleton to be able to continue to perform in a light duty position. She summarized Dr. Homan's findings regarding the shoulder injury and spoke about Officer Middleton's refusal to undergo surgery.

Mr. Brown offered rebuttal on two issues raised by Ms. Gridley-Hetz; Mr. Kaufman, Board attorney, also addressed the surgery matter advising the trustees that a genuine fear of surgery is reasonable and should not be held against Officer Middleton. Mr. Kaufman suggested addressing the totality and permanency of the disability as two separate motions.

Chairman Smith declared the evidence phase of the hearing was now closed and the Board would enter into the determination phase of the proceeding.

**A MOTION THAT THIS IS A LINE OF DUTY DISABILITY BASED ON THE EVIDENCE PRESENTED** was made by Mr. Fleury and seconded by Mr. Vicente; **MOTION CARRIED UNANIMOUSLY.**

Chairman Smith then verified with Ms. Gridley-Hetz that a limited duty position is still available to Officer Middleton without any reduction in pay or benefits. He then stated the Board would follow Mr. Kaufman's advice and address the permanency and totality of the injuries as separate issues.

**A MOTION THAT THIS IS A PERMANENT DISABILITY** was made by Chairman Smith and seconded by Mr. McCullion; **MOTION CARRIED UNANIMOUSLY.**

**A MOTION THAT THIS IS NOT A TOTAL DISABILITY** was made Mr. Fleury and seconded by Ms. Botts. Some discussion ensued.

**A MOTION TO DENY THE DISABILITY PENSION AT THIS TIME AS THE CHIEF OF POLICE HAS A LIMITED DUTY POSTION WITHOUT REDUCTION IN PAY OR BENEFITS** was made by Mr. Fleury and seconded by Ms. Botts; **MOTION CARRIED UNANIMOUSLY.**

Chairman Smith explained that if any conditions change, whether a job is no longer available or Officer Middleton's physical condition changes, she will be eligible to submit a secondary application to the Board to be reassessed for a disability pension.

A recess was taken at 1:07 PM, at which time Officer Middleton, Ms. Baxter, and Officers Eaton, Brewster, Zedick, Bishop, Gately, Hinson and Sanderlin, Ms. Dunlap, Ms. Folse, Ms. Skiles, Ms. Huckelberry, Ms. Gilmore, Ms. Henderson and Mr. Brewster left the meeting.

Meeting resumed at 1:14 PM.

3. **APPROVAL OF MINUTES OF MAY 10, 2018**

**A MOTION TO APPROVE THE MINUTES OF MAY 10, 2018** was made by Mr. Fleury and seconded by Ms. Botts; **MOTION CARRIED UNANIMOUSLY.**

4. **APPROVAL OF CONSENT AGENDA**

**A MOTION TO APPROVE THE CONSENT AGENDA** was made by Chairman Smith and seconded by Mr. McCullion; **MOTION CARRIED UNANIMOUSLY.**

5. **PENDING / OLD BUSINESS**

a. **Disability Updates**

Dolores Bracero:

Officer Bracero is still waiting for the results of the functional capacity exam (FCE) and workers' compensation doctors to complete their reports. Chairman Smith granted another 60 day extension.

Christopher Brilliant:

Mr. Brown and Ms. Gridley-Hetz have agreed to a stipulation that Officer Brilliant is permanently and totally disabled with a limited duty job available. Officer Brilliant is not requesting to be heard by the Board and will be scheduled for an initial hearing on July 30, 2018.

Kenneth Brown:

Mrs. Brown still needs to obtain some medical records before the case can move forward.

Laurin Gantt:

Chairman Smith noted that this case has been indefinitely extended.

Randy Archer:

Chairman Smith has already granted an extension for this case to July 31, 2018. (Mr. Brown left the meeting at 1:21 PM.)

b. **Securities Litigation Update**

Chairman Smith noted Ms. Laudeman's report.

c. **Minors Benefit Form**

Mr. Kaufman noted that the requested addition has been made to the form.

**A MOTION TO ACCEPT AND ADOPT THE MINORS BENEFIT FORM AND MAKE IT PART OF THE POLICIES AND PROCEDURES** was made by Mr. McCullion and seconded by Mr. Vicente; **MOTION CARRIED UNANIMOUSLY**

6. **NEW BUSINESS**

a. **Statement of Financial Interests**

All of the Police Pension Board trustees have submitted their forms.

b. **Share Calculations for 2016**

Ms. Laudeman asked if the Board had any issues with the list of participants that earned a share in 2016 that she had sent them. There were none. She will post the information to the website for 30 thirty days and send letters to all entitled to allow for any corrections.

**A MOTION TO TENTATIVELY APPROVE THE 2016 SHARE CALCULATIONS, POST THE INFORMATION TO THE WEBSITE AND RESOLVE ANY INQUIRIES** was made by Chairman Smith and seconded by Mr. Fleury; **MOTION CARRIED UNANIMOUSLY.**

c. Chairman Smith cancelled the August 9, 2018 meeting.

d. Mr. Kaufman distributed a memorandum about titled "Government in the Sunshine Law" to the trustees.

7. **ADJOURNMENT**

**A MOTION TO ADJOURN** was made by Chairman Smith and seconded by Mr. McCullion. The meeting adjourned at 1:26 PM.

Respectfully submitted,

*Michele Keane*

Michele Keane  
Pension Coordinator