

## **SUNRISE POLICE OFFICERS' RETIREMENT PLAN**

13790 N.W. 4<sup>th</sup> Street, Suite 105

Sunrise, FL 33325

September 19, 2022

10:00 A.M.

### **Call to Order**

On behalf of the Board, Mr. Mike West called the special meeting to order at 10:01 A.M.

### **Public Discussion**

None

### **Roll Call**

Present were Mr. Michael West – Chairman; Mr. William Bettencourt – Secretary; Mr. Lou Berman; Mr. Eric Goldstein and Mr. Keven Sweat - Trustees.

### **Absent & Excused**

None

### **Others Present**

Mrs. Richelle Levy – Lorium Law.; Mr. Christopher Moine – City of Sunrise; Ms. Milena Groueva; Mr. Dave Williams – Plan Administrator and Mrs. Patty Ostrander – Recording Secretary.

### **Attorney's Report**

Mrs. Levy updated the Board on the 415-limit language being proposed between the city and the PBA which proposes that if you are entering the DROP, or in DROP and the actuary determines that you will likely be hitting the 415 limitation you can leave the money in DROP and start receiving an in-service distribution. You would be enrolled in the plan as required under Chapter 185 and contribute to the plan again as if you were re-hired. The language also stated that you will be subject to ten-year vesting and requires that you separate your service at the end of your DROP. Therefore, you will never be able to vest in the second benefit. She has had several conversations between her, the Plan's tax attorney, and the City's outside counsel.

Mrs. Levy advised that the Tax Attorney expressed that he is still of the opinion that the vesting requirement in the proposed language violates the Internal Revenue Code and potentially risks our tax qualification status.

Mrs. Levy stated that this violates the Internal Revenue Code because if you are at normal retirement age you have to be 100% vested.

After Board discussion, Mrs. Levy asked the Board how they want her to proceed. She states that since the Plan doesn't have a determination letter, we can file for a determination letter with this language included in our Plan document if the ordinance amendment is passed. If the IRS says it violates the internal revenue code, we would not be able to comply with the language as written.

Mr. West asked Mrs. Levy to reach out to the city, explain the situation and ask to work together on this. Mrs. Levy will keep the board informed as to what transpires.

On another issue, Mr. West asked Mrs. Levy if reserve officers who are working for the city at the arena are subject to forfeiture of their pension and Mrs. Levy stated that she believed that the answer is likely yes based upon research.

**Informal Disability Hearing – Christopher Moine**

Mrs. Levy opened the meeting by outlining the procedures in place for an initial hearing in a disability matter and the duty of the Trustees. The Trustee decision is to be based on the pension file and they may hear from the Applicant or his representative. Mrs. Levy reviewed the ordinance sections and Florida Statutes that are applicable to this claim. Mrs. Levy stated that the member's application was filed in a timely manner and contains a physician report which states that he is physically incapable of performing his duties as a police officer and not likely to recover from this disabling condition. The Board reviewed the pension file, which contains Mr. Moine's medical records, the Board's IME and workers compensation records. After lengthy discussion by the Board and allowing the member to make a statement.

Mr. Berman made a motion that the member is permanently disabled and not likely to recover from his disabling condition, seconded by Mr. Bettencourt. Motion passed 5-0.

Mr. Sweat made a motion that none of the exclusions listed below apply, seconded by Mr. Berman. Motion passed 5-0.

If found to be totally and permanently disabled, was the disability a result of any of the following disqualifiers:

1. Excessive and habitual use of drugs, intoxicants, or narcotics
2. Injury or disease sustained while illegally participating in fights, riots, civil insurrections or while committing a crime
3. Injury or disease sustained while a member of the armed forces
4. Injury or disease sustained by the member after his employment with the city has terminated
5. Injury or disease sustained while working 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 that employment; this does not exclude recovery by a police officer while engaged or enforcing the laws of the state

Motion to approve an in-service disability for Mr. Moine by Mr. Eric Goldstein, seconded by Mr. Lou Berman. Motion carried 5-0.

Mr. Goldstein made a motion that after reviewing the totality of records provided for Christopher Moine, it is clear that he had a pre-existing condition in 2011. However, that condition did not prevent him from providing useful and efficient service to the City of Sunrise as a Police Officer. Therefore, because of the injuries sustained on September 29, 2016, and as documented by Dr. Worth Independent Medical Examination; further by the termination of the member by the City of Sunrise on August 22, 2022, it is evident that the member is now unable to provide useful and efficient service as a Police Officer. Member's injury is total and permanent, and duty related as evidenced by the City of Sunrise Workman's Compensation claim, seconded by Mr. Sweat. Motion passed 5-0.

Mrs. Levy will prepare an Order for this Initial hearing for Mr. West to sign and then the document will be sent to Mr. Moine.

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**Open Board Discussion**

No open discussion ensued.

**Adjournment**

Motion to adjourn at 10:45 A.M. by Mr. Goldstein, seconded by Mr. Bettencourt. Motion passed 5-0.