



Tucson Police and Fire PSPRS Boards
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MEETING MINUTES

Tucson Police PSPRS Board

Tuesday, September 6, 2016

The regular meeting of the Tucson Police Public Safety Personnel Retirement System Board was held on Tuesday September 6, 2016 on the 1st floor, Tucson Fire Department, Room 121, Fire Central, 300 S. Fire Central Place, Tucson, Arizona.

Mayor Rothschild called the Tucson Police PSPRS Board meeting to order at 9:06 a.m.

1. ROLL CALL

Police Board Members:

Present:	Jonathan Rothschild	Chair
	Max Parks	Member
	Rebecca Hill	Member
	Michael Dietsch	Member
	Terrence O'Hara	Member

Also Present:	Nathan Weber	Fire Board Member
	Craig Westphal	Fire Board Member
	David McEvoy	Board Attorney
	Michael Jesse	Board Secretary
	Susanna Horn	PSPRS Office
	Robert Callan	
	Edward Boyen	
	William Kiser	
	James Fedor	
	Mr. Fedor's brother	
	Dale Norris	Attorney for James Fedor

A Police Board quorum was established with all members present.

2. POLICE CONSENT AGENDA: ITEMS A – G**A. MINUTES FOR APPROVAL – August 2, 2016****B. PENSION PAYROLL – Additions and deletions to benefits**

<u>Name</u>	<u>Transaction Type</u>	<u>LDW</u>	<u>Eff Date</u>	<u>Ben Amt</u>
Driscoll, Jeffrey	NSR Out of DROP	08/04/2016	09/01/2016	\$ 3,523.74
Merrill, Michael	NSR Out of DROP	08/31/2016	09/01/2016	\$ 5,058.35
Davis, Mark	ADR	08/11/2016	09/01/2016	\$ 3,007.56

C. ELECTION TO PARTICIPATE IN DROP

<u>Name</u>	<u>Yrs of Srv</u>	<u>Date</u>	<u>Eff. Date</u>
Mammana, Gregory	22.103	08/31/2016	09/01/2016

D. PRE-EMPLOYMENT PHYSICAL REQUIREMENT**Class: 16-2 Membership Date: 08/05/2016**

<u>Name</u>	<u>Date passed pre-employment physical</u>
Moore, Zachary	03/07/2016
Rabert, Robert	03/06/2016
Sauber, Michael	03/08/2016

E. REFUND OR TRANSFER OUT OF MEMBER CONTRIBUTIONS

<u>Name</u>	<u>Yrs of Srv</u>	<u>EE Contr Bal</u>	<u>Type</u>
Martino, Arick	2.48	\$ 14,092.03	Refund

F. REDEMPTION, TRANSFER OR PURCHASE OF SERVICE

<u>Name</u>	<u>Yrs of Srv</u>	<u>Cost</u>	<u>Type / From</u>
Lichty, Brad	4.000	\$ 83,387.00	Redemption/Military

G. APPROVAL OF EXPENDITURES

<u>Company Name</u>	<u>Description</u>	<u>Date</u>	<u>Amount</u>	<u>Method</u>
McEvoy, Daniels, Darcy	September Retainer	09/06/2016	\$ 400.00	DA-23

Motion by Mr. Dietsch, seconded by Mr. O’Hara, that Police Items A-G are adopted and appropriate action taken. Motion **CARRIED** by a roll call vote of 5-0.

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APPROVED
10/04/2016

3. FIRE CONSENT AGENDA: ITEMS A – D**A. MINUTES FOR APPROVAL – August 2, 2016****B. PENSION PAYROLL – Additions and deletions to benefits**

<u>Name</u>	<u>Transaction Type</u>	<u>LDW</u>	<u>Eff Date</u>	<u>Ben Amount</u>
Martin, William	Death of Retiree	07/28/2016	08/01/2016	(\$ 3,477.75)
Martin, Penny	Survivor	N/A	08/01/2016	\$ 2,782.20
Aguilar, Albert	Death of Retiree	07/26/2016	08/01/2016	(\$ 3,215.02)
Discher, Wilfred	Death of Retiree	08/06/2016	09/01/2016	(\$ 3,355.66)
Green, Martin	Active Member Death	08/13/2016	N/A	N/A
Castro-Green, Anel	Survivor	N/A	09/01/2016	\$ 4,361.12*

*Spouse of deceased active member Martin Green. Amount reflects two eligible dependent shares.

C. ELECTION TO PARTICIPATE IN DROP

<u>Name</u>	<u>Yrs of Srv</u>	<u>Date</u>	<u>Eff. Date</u>
D'Auria, Glenn	30.115	08/31/2016	09/01/2016

D. APPROVAL OF EXPENDITURES

<u>Company Name</u>	<u>Description</u>	<u>Date</u>	<u>Amount</u>	<u>Method</u>
McEvoy, Daniels, Darcy	September Retainer	09/06/2016	\$ 400.00	DA-23

No action taken by the Police Board on this Fire Item.

4. APPLICATION FOR DISABILITY PENSION-Review**Police** - Attachments

<u>Name</u>	<u>LDW:</u>	<u>Eff Date:</u>	<u>Application Type</u>
Boyen, Edward	TBD	TBD	Accidental
Kiser, William L.	07/02/2015	TBD	Accidental

Motion made by Mr. Dietsch, seconded by Mr. O'Hara, to refer Mr. Boyen to Dr. Thrasher, Board Physician, for a physical examination. Motion **CARRIED** unanimously

Motion made by Mr. Dietsch, seconded by Mr. O'Hara, to refer Mr. Kiser to Dr. Thrasher, Board Physician, for a physical examination. Motion **CARRIED** unanimously

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5. APPLICATION FOR DISABILITY PENSION-Review of additional report**Police** - Attachments

Name	LDW:	Eff Date:	Application Type
Callan, Robert	12/28/2015	09/01/2016	Accidental

Motion made by Mr. Dietsch, seconded by Mr. O’Hara, that Mr. Callan is immediately eligible (effective September 1, 2016) to receive an Accidental Disability retirement based on the medical evidence and observations included in the report provided by Dr. Thrasher, Board Physician. Motion **CARRIED** unanimously

6. APPLICATION FOR DISABILITY PENSION-Review of report**Police** - Attachments

Name	LDW:	Eff Date:	Application Type
Thielen, Jeffrey	08/29/2002	07/19/2016	Accidental
Marcotte, Douglas	09/29/2010	08/22/2016	Accidental

Motion made by Mr. Dietsch, seconded by Mr. O’Hara, that Mr. Thielen and Mr. Marcotte are in compliance with the bi-annual physical requirements and remain eligible to continue receiving disability pension benefits. Motion **CARRIED** unanimously.

7. APPLICATION FOR DISABILITY PENSION-Re-hearing**Police** - Attachments

Name	LDW:	Eff Date:	Application Type
Fedor, James	05/01/2015	TBD	Accidental

Motion made by Mr. Dietsch, seconded by Mr. O’Hara, to enter Executive Session for discussion of Mr. Fedor’s Accidental Disability retirement application . Motion **CARRIED** unanimously.

Upon exit from Executive Session, Mayor Rothschild asked Dale Norris, attorney for Mr. Fedor, if there would be any witnesses. Mr. Norris answered that there would only be one witness – Mr. Fedor. Mayor Rothschild then administered an oath to Mr. Fedor to swear him in as a witness.

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Mr. Norris was provided the opportunity to make an opening statement. Mr. Norris stated that his understanding was that the purpose of the hearing was to establish whether or not Mr. Fedor had submitted sufficient evidence to meet the statutory prerequisites (as stated in the board rules) required to be recommended for an Independent Medical Evaluation. Mr. Norris commented that there were actually no prerequisites in the state statues but thought the Accidental Disability Questionnaire contained three key questions that could, for purposes of the hearing, serve as a reasonable proxy of the prerequisites mentioned in the board rules.

Does the employee have the physical or mental condition that is the basis for the disability?

Mr. Norris pointed out that letters submitted from a psychiatrist (Marku), a psychologist (White), and the current counselor (Ruge) all affirm that Mr. Fedor has the condition upon which his claim is based.

Does the injury or condition permanently prevent the employee from performing a reasonable range of duties within the employee's job classification?

Mr. Norris said that the submitted letters from the three health professionals all affirm that his condition prevents him from performing his duties within his job classification of police officer.

Was the injury or condition the result of an event incurred during the performance of the employee's duty?

Mr. Norris stated that the submitted letters from the three health professionals each indicate that the condition was a result of events incurred during the performance of Mr. Fedor's duties as a police officer.

Mr. Norris then called attention to Dr. Cornell's (health provider internal to Tucson Police Department) records that had been submitted by Mr. Fedor. Those records show that Mr. Fedor went to see Dr. Cornell twice. Each time was following the events discussed in the first memorandum submitted to the board. In each of those notes from Dr. Cornell, Mr. Fedor discusses his difficulties in these situations.

Mr. Norris said he had submitted Dr. Cornell's transcribed records as noted in the second memorandum to the board. Mr. Norris indicated those were the first exhibit. He stated that

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on the third page of the first exhibit – if you look at this you need to understand that at this time Mr. Fedor had only been on the job nine months. Mr. Norris said if you look at the bottom, in that nine months Mr. Fedor was asked were there any other instances of this type which caused some post traumatic response.

Mr. Fedor's response was two, so we are looking at three incidences in his first nine months.

These are the incident he is seeing Dr. Cornell about on this particular day, a child abuse case, and a previous shooting.

What does he report to Dr. Cornell? He reports concentration difficulty, general anxiety, intrusive thoughts, and self-doubt/questioning himself about this.

On the next page of the document, Dr. Cornell asks about the worst moment for him in this event. Mr. Fedor replied it was the initial confrontation with Jeremy (the young man he confronted face-to face that was suicidal).

Dr. Cornell asked Mr. Fedor what his concerns were. His concerns were:

- Did I do the right thing?
- Should I have done something else?

At this point, Mr. Norris again emphasized Mr. Fedor's nine months on the job.

Mr. Norris stated, this was not the last incident and probably not even the most significant in Mr. Fedor's career as it relates to his current condition.

Mr. Norris said the other item to talk about is an event where Mr. Fedor is on the scene and he is attempting to perform lifesaving CPR on a subject that had been shot. Mr. Fedor's supervisor arrived on the scene and orders him to stop – forces him to stop – his life saving efforts. Mr. Fedor did not agree with the supervisor, he resisted, but in the end he was ordered to stop.

Mr. Norris said if you turn to about the 13th page of the transcribed notes from Dr. Cornell, again she asks Mr. Fedor about the worst moment of this incident. Mr. Fedor replied that it was having to stop rendering aid because Sergeant Z directed him multiple times. That, and learning that a comment was made about it the next day. Mr. Norris told the board members they could ask Mr. Fedor about what that comment was and how incredibly devastating it was to him. Mr. Norris pointed out that later on in the bottom paragraph Mr. Fedor reiterates that he was significantly upset at getting the direction to stop rendering aid and that he wished his request to continue had been heeded.

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Mr. Norris said your IME will tell you what effect that had on him – on Mr. Fedor- I don't know – I am not a doctor, but your IME will tell you that.

Mr. Norris felt the information he covered had established with a doubt the statutory prerequisites. He told the board members they needed to trust that the board's IMEs will look at this and give the board a good evaluation of Mr. Fedor's disability.

Mr. Norris said there is only one court case that discusses any of these initial hearings for PSPRS disability retirement. He cited the Hosea case and offered the board a copy if it the board wanted it. He stated it was a case out of Phoenix where the board on an initial hearing refused to send a firefighter for an IME. The court said that was okay because in that case it was futile. That even with the evidence the firefighter presented there was no way the board could - the facts did just not support- the medical evidence in no way supported – find for an award of a disability pension.

Mr. Norris asserted that is not the case the board has here. It does not have a futile case. The board has a case where it now needs to hear from its experts.

Mr. Norris said that he thought it important the board hear from Mr. Fedor – for him to tell the board what forced him out. Mr. Norris closed by saying I am just going to let Mr. Fedor tell his story – I am not going to question him if that is okay – I am just going to let him tell his story.

Mr. Rothschild said that he understood Dr. Marku's opinion of the medical condition and Dr. White's. He asked if Shelley Ruge was just reciting the incidents that led to the alleged condition or did she provide more than that. Mr. Norris asked if he was talking about Mr. Fedor's counselor – the LPC. Mr. Rothschild confirmed that he was.

Mr. Norris clarified the issue about Ms. Ruge for Mayor Rothschild. He said that with regard to the three elements to consider she had made the following statements:

1. Mr. Fedor is diagnosed with F43.10 post traumatic stress disorder and F43.21 adjustment disorder with depressed mood.
2. Mr. Fedor's mental health condition permanently prevents him from fulfilling duties required as a police officer.
3. Mr. Fedor's symptom onset and current condition appears to be a direct result of traumatic incidents that occurred while conducting his responsibilities as a police officer.

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Mayor Rothschild said he could envision a situation in which you would determine you would not want to put an officer back on the street. He asked if that precluded the board, or an Independent Medical Evaluator, from saying an officer should not go back on the street but may fulfill a different role in the police department.

Mr. McEvoy noted that the statute says the officer would not be able to perform a reasonable range of duties within his job classification. So, you would have to define classification. If it could include something that is not in the field and that is a reasonable range of duty to be in that classification, then theoretically that could happen.

Mayor Rothschild sought confirmation it could be said that an officer should not be on patrol on the street, but the officer that could potentially be doing administrative duties within the department.

Mr. McEvoy said it could if it was written in the job classification and suggested the elected board members who are police officers could provide clarification.

Mayor Rothschild stated that unless anybody had any other questions, the board should hear from Mr. Fedor.

Mr. Fedor said he would speak about the two incidents Mr. Norris covered earlier and then speak about why he left.

First Incident

Mr. Fedor said he was still an FTO (Field Training Officer) at the time of this incident. A call of domestic violence with a weapon came out. Several officers arrived on the scene at the same time. They were bypassing a door on the east side of the house – it was hard to tell where it was. The available information was that a man with a gun or a hammer and/or a bat was at the home. Three hostages had barricaded themselves inside the bathroom of the home. He knocked on the door and Jeremy, the suspect, answered the door. The suspect had a very non-lucid look on his face and then immediately walked away from Mr. Fedor and around the corner toward the bathroom where the hostages were. When the suspect turned away, Mr. Fedor saw that he had a gun in his hand that he had hidden behind the door when he answered it. When Mr. Fedor announced himself to the suspect and tried to get him outside, the suspect kind of looked through Mr. Fedor and went around the corner. When the suspect came back around the corner, he had the gun to his head and was screaming at Mr. Fedor to kill him. Mr. Fedor and another officer held the suspect at gunpoint and they were yelling at him to drop the gun. The suspect backed off into an adjacent room and started sniffing bath salts off the coffee table. The suspect became more and more paranoid. A 911 emergency operator was on the phone with the people in the

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bathroom while a plan was being coordinated to try to free those people. Mr. Fedor and the other officer continued to talk with the suspect. They talked to the suspect about his daughter, his family, and tried to get him to think about his future. At the same time, Mr. Fedor's best friend and some other officers broke through the back door and extracted the hostages from the bathroom. At that point, they were able to back off a bit. They did not need to maintain such a tight perimeter and then SWAT took over when they arrived a couple of hours into the incident. Then time went by and the suspect got a rifle out of

another room. The suspect took a shot at Sergeant Spencer who shot back and killed the suspect. Mr. Fedor said the thing he struggles with regarding this is that he feels like he should have shot the suspect. Because he did not, his best friend had to go in the house and Sergeant Spencer got shot at. As a result, Sergeant Spencer had to kill the suspect and now has to carry that with him. Mr. Fedor feels that he should have done it and that he "f***d up". After the incident, Mr. Fedor said he started drinking a lot. He would get off work in the morning then drink 3 or 4 beers to go to sleep. He had a really hard time concentrating and became very hypervigilant.

Second Incident

Mr. Fedor stated that the second incident was a couple of years after the first incident.

He said he was called to a high school graduation party where there was a shooting. He was the first one to arrive on the scene. When he arrived, there were a lot of people running away from the scene. He asked where the shooter was. He was told the shooter had left. Near the front of the house he saw a blood trail leading into the front part of the house. That is where he saw a young girl holding rags on a boy's abdomen where he had been shot. Mr. Fedor saw that the boy was breathing. The girl reported there was another person in the house that had been shot. Mr. Fedor left to go find the other shooting victim. He found a kid in the bathroom that had been shot in the leg. Mr. Fedor said, based on the wound, the victim looked like he would be okay. He told the victim to lay down and Mr. Fedor wrapped the wound. He checked the rest of the victim's body to see if there were any more wounds. The victim's friend was there. He told the friend to keep the victim's leg elevated and put pressure on it. He also told the friend that paramedics were coming and instructed the friend to keep the victim awake. Then Mr. Fedor left to go back to the first kid because he was much worse shape. He called for paramedics a bit before that. When Mr. Fedor got back to the first kid, he saw another officer (that was a friend of Mr. Fedor's) caring for him. Mr. Fedor left to go find another job to do. About that time, Sergeant Zaugra radioed that he could not find the house. He ordered Mr. Fedor out of the house to flag him down so that he could find the house. Mr. Fedor did as instructed. When Mr. Fedor came back, he noticed that Sergeant Zaugra went in the house and then noticed that his officer friend was alone with the kid that had been shot in the abdomen. Mr. Fedor went over to the officer. The officer told Mr. Fedor that he was having a hard time feeling the pulse and that the kid was hemorrhaging in his abdomen now. The officer

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asked Mr. Fedor to check to see if he could find a pulse as the officer had lost it. Mr. Fedor approached and felt for the pulse a couple of times in the neck and the wrist. He could not find it. He tried three times to make sure. Mr. Fedor moved in to do chest compressions. When he did, Sergeant Zaugra came over to him and told him to go gather witnesses. He thought maybe Sergeant Zaugra did not understand. Mr. Fedor told Sergeant Zaugra that he had just lost the kid's pulse and CPR was needed. Sergeant Zaugra said I told you to get up and go stand with the witnesses over there in the other room. Mr. Fedor reiterated that he had just lost the kid's pulse and needed to do CPR.

Sergeant Zaugra balled his fist and took a step toward Mr. Fedor. He leaned over Mr. Fedor and said he had told Mr. Fedor to "get the f**k up" and go stand with those witnesses. Mr. Fedor did as instructed. Then Mr. Fedor watched his officer friend just hold the kid in his arms as he died. Mr. Fedor says he does not know why he did that. He does not know why he just didn't do CPR on this "f*****g" kid.

Mayor Rothschild asked Mr. Fedor what his background, job experience, and education were before he applied to become a police officer. Mr. Fedor replied that he was in the Marines for six years and he had just graduated from college.

Mayor Rothschild asked Mr. Fedor about his Marines experience. Mr. Fedor replied that he was a Motor T Operator. He drove Humvees, trucks, and other things of the like.

Mayor Rothschild asked Mr. Fedor if he was ever deployed overseas. Mr. Fedor replied that he had not been deployed overseas.

Mayor Rothschild said he thought it would be possible that a physician could find that an officer should not be placed back in the field, but that the officer might still be able to do other kinds of work within the department. He asked what the rules were for that. He said that he could envision a doctor saying that an individual should not go back into the field, but if you got that individual a desk job he might make a fine officer. He again asked for the rules on that.

Mr Dietsch stated that the individual would apply with the Tucson Police Human Resources Department and explain what limitations exist. There are several desk jobs in which the officer would not have any contact with the outside world essentially. The officer would not be in a patrol car, would not be in uniform and would not be taking calls and dealing with the public. The officer would be handling medical issues or issuing cases with the county attorney, grand jury, and things of that nature.

Mr. Parks asked if that was part of a patrol officer's classification that they could actually step into.

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Mr. Dietsch said yes it is. There are certain jobs that require a police officer, basically their background and/or their certification, to do some of these jobs – even including research and analysis.

Mr. McEvoy asked if that police officer would be susceptible in an emergency to be called into the field, if necessary, at any time even though it might not be likely to happen.

Mr Dietsch said potentially – yes. That person would still be required to carry a gun, handcuffs, extra magazines – similar to the way I am dressed today. Yes.

Mayor Rothschild asked if anyone had questions for Mr. Fedor.

Board members then asked questions of Mr. Fedor.

Mr. Dietsch asked Mr. Fedor if he was surprised by how things went with Jeremy (the suicidal individual that had to be shot and killed by Tucson Police Department). Mr. Fedor answered that he had never seen anything like that but said he was not sure what Mr. Dietsch meant.

Mr. Dietsch asked Mr. Fedor if he had any training in the academy on what he might be exposed to or see on the job. Mr. Fedor answered yes and stated that is why he was having a hard time with this. In the academy he learned that the reaction of waiting for an offender to do something threatening to him is slower than being proactive.

Mr. Dietsch asked Mr. Fedor if he had trained for this type of scenario. Mr. Fedor answered yes. Mr. Dietsch followed by up asking how Mr. Fedor handled it. Mr. Fedor replied he handle it well.

Mr. Dietsch asked Mr. Fedor if he applied for an ADA accommodation while in law school at ASU. Mr. Fedor answered yes. Mr. Dietsch followed up asking Mr. Fedor if he was still in school. Mr. Fedor replied that he was no longer in school – not after his suicide attempt.

Mr. Dietsch asked Mr. Fedor what the accommodations were as the form had been left blank. Mr. Fedor answered off the top his head he had the ability to leave class if needed, he was granted extended time for exams, and he had the ability to not attend class if necessary. Mr. Dietsch then asked Mr. Fedor how the accommodations had worked for him. Mr. Fedor replied that the accommodations were implemented after the first semester but he was only in school for a couple of weeks thereafter.

Mr. Dietsch asked Mr. Fedor if he had two interviews with Dr. Cornell – one after each of the shootings. Mr. Fedor answered that he actually had three interviews with Dr. Cornell

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and was not sure why the records did not reflect that. Mr. Dietsch asked why he met with Dr. Cornell a third time. Mr. Fedor replied that the third time was related to the matter when he was instructed to stop CPR efforts. Mr. Fedor stated that he went with his wife and discussed the issues he was having with that.

Mr. Dietsch asked Mr. Fedor if he had any follow up with anyone after that. Mr. Fedor answered that he went to his primary care physician and was prescribed antidepressants. Mr. Fedor continued that he was not positive of the time frame of that relative to the interviews with Dr. Cornell. Mr. Fedor stated that his primary care physician was the only medical professional he had seen until he left Tucson Police Department.

Mr. Dietsch told Mr. Fedor that in reading Dr. Cornell's notes he saw that Mr. Fedor denied symptoms after the May 2013 incident that would keep him from going back to work. Mr. Fedor agreed and said it was important to state that at that time he was feeling incredibly embarrassed, and still does, he was feeling incredibly weak, and still does, and was afraid of losing his job.

Mr. Dietsch asked Mr. Fedor about who originally diagnosed him with PTSD. Mr. Fedor answered the first doctor to say he had PTSD was his primary care physician. Mr. Fedor stated that the doctor had been a physician in the army and was the first one that treated him for the condition. Mr. Fedor said he then went to Dr. White and she also diagnosed him with PTSD. Mr. Fedor then commented that after his third suicide attempt he was in the hospital for a week and a doctor there diagnosed him with PTSD. Mr. Fedor further commented that after being released from the hospital he saw Dr. Marku who also diagnosed him with PTSD. Mr. Fedor finished by saying that his current therapist diagnosed him with PTSD as well.

Mr. Dietsch expressed concern that a questionnaire Mr. Fedor had submitted to Amy White indicated he had been receiving PTSD medications since July 2015 and there was nothing explained in the documentation to help the board make that connection. Mr. Fedor indicated it was his primary care physician that was the first to prescribe those medications and it occurred about the July 2105 timeframe. Mr. Dietsch asked Mr. Fedor about not providing any kind of that information for the board. Mr. Fedor replied that he thought the other stuff he gave the board would have been a lot.

Mr. Dietsch mentioned DSM 5 testing used in the diagnosis of PTSD and asked Mr. Fedor if he had gone through any of that testing. Mr. Fedor replied that he was not sure what kind of tests he had.

Mayor Rothschild asked Mr. Fedor what kind of therapies he was receiving. Mr. Fedor answered that he was receiving medication, talk therapy from a counselor, EMDR for trauma reprocessing, meditative and aroma therapies, and that he has a service dog that

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was therapeutic. Mayor Rothschild followed up and asked Mr. Fedor what kind of medications he was taking. Mr. Fedor replied that he was taking prazosin, duloxetine, trazodone, and hydroxyzine.

Mayor Rothschild asked Mr. Fedor what he was doing for employment. Mr. Fedor indicated he was not employed.

Mr. McEvoy asked Mr. Fedor about his prognosis and what the professionals tell him about what his future might look like. Mr. Fedor answered that from what he has been told he is never going to be perfect – there is a new normal for him.

Mr. Dietsch asked Mr. Fedor if his current medications are improving his life. Mr. Fedor answered that he did not want to kill himself as much. Mr. Dietsch follow up and asked Mr. Fedor if the medications had improved the quality of his life with him and his family. Mr. Fedor replied it improved a little bit.

Mr. Parks noted that Mr. Fedor's resignation letter said it had been a pleasure working with the department and told Mr. Fedor he was interested as to why there was no mention of a stress issue in it. Mr. Fedor answered that there was embarrassment and a fear of coming forward to say something. Mr. Fedor went further and said his wife had suggested law school – maybe things would get better not working with what he saw every day. Mr. Fedor indicated he wanted to have a clean break with his reputation intact. Mr. Parks clarified with Mr. Fedor that it was perception Mr. Fedor was considering with respect to the resignation letter. Mr. Fedor confirmed that assessment was correct.

Mr. Parks asked Mr. Fedor when applying with the department what his expectations were of the types of situations he would be in and the things he would actually see. Mr. Fedor answered that he had no delusions about the types of things in which he would be engaged. Mr. Parks then asked Mr. Fedor if he understood the nature of the job when he applied for it. Mr. Fedor confirmed that he did – he went on ride alongs, his best friend is still a member of the department. Mr. Fedor said he felt he knew what exactly what he was getting into but does not think anybody really knows - (he paused here). Mr. Parks interjected that it is hard to train for without actually seeing it. Mr. Fedor said he had trained for scenarios but they are not the real thing. Mr. Fedor then commented that there were plenty of horrible things he has seen and dealt with that he does not feel bad about. Mr. Fedor concluded by saying that if it weren't for the few incidents he is having a hard time dealing with, he might still be on the job.

Mr. McEvoy followed up on Mr. Parks' comment regarding the resignation letter making no mention of stress and asked Mr. Fedor if the condition manifested after resigning or was it there beforehand and he did not want to say it. Mr. Fedor answered that he does not

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think he knew what it was while he was still working – he said he could not sleep without drinking and that he was drinking way too much. Mr. Fedor also said that he was having panic attacks at work but did not know what they were at the time – he was in an unhappy state on the job and no one said anything to him about PTSD until later.

Mr. McEvoy then asked Mr. Fedor if the symptoms were about the same before and after his resignation letter. Mr. Fedor answered that they were not the same. Mr. McEvoy asked him how they were different. Mr. Fedor replied that it was explained to him that it was like running a marathon with a broken leg – the body buries the pain while running and when the running stops all of a sudden the pain starts coming up. Mr. Fedor commented further that he knew he had that broken leg, knew he was in pain, and knew he had all these issues – once he stopped running is when it progressed. Mr. Fedor said he

had thought it would get better. Mr. McEvoy asked Mr. Fedor if it got worse. Mr. Fedor replied that he did try to kill himself.

Ms. Hill asked Mr. Fedor if he had applied for Social Security disability benefits. Mr. Fedor indicated that he had not.

Ms. Hill asked Mr. Fedor if he felt there were any job functions that he could reasonably perform. Mr. Fedor answered that he hoped so in the future. He said that he did not want to be stuck in the house the rest of his life afraid to go outside. He finished by saying that he is hoping that in some time he would be able to get a job.

Ms. Hill asked Mr. Fedor what he thought he could do. Mr. Fedor answered that he thought about working with animals. He finished by saying that he did not know – he was not sure.

Ms. Hill asked Mr. Fedor if there was anything at the police department he thought he could do. Mr. Fedor replied that when he was in law school he thought about going into criminal law due to having some background in it. He said that he could not make it through the lectures and the case reports he was reading as it kept bringing him right back. Mr. Fedor finished by saying that because of that he would not want to work in the criminal justice industry at all – entirely because he just could just not do it.

Ms. Hill stated that there are different functions at the police department – working with records and background screening – that do not really have anything to do with criminal justice. She then asked Mr. Fedor if he had the ability to concentrate with the medications he is taking. Mr. Fedor answered that it depended. He said the medications all do different things. He then commented that his concentration is not all that good in general.

Mayor Rothschild asked if anyone had anything else.

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Mr. Dietsch asked Mr. Fedor if before turning in his resignation he had consulted with Dr. Cornell or his chain of command about maybe going to a different assignment to relieve some of the stress of patrol work. Mr. Fedor said he had not. Mr. Dietsch then asked Mr. Fedor why he had not done so. Mr. Fedor answered, asking his language be excused, that he did not want to be a “p***y” – that is like I cannot handle it. Mr. Fedor stated that his perception of the culture of the department is that his reputation would have been harmed by that. He finished by saying that is how he felt.

Mayor Rothschild asked if anyone had anything else. If not the testimony would be closed.

Mr. McEvoy said Mr. Norris may want to make a closing statement.

Mr. Norris said he did want to leave the board with two thoughts. He stated that statistics from the Department of Justice show that suicide is the leading killer of police officers – by far – it is not even close. Mr. Norris mentioned having heard Laura Kunard, a PhD that works on the President’s Task for Officer Safety and Wellness, speak on a previous occasion and he wrote down something she had said. He shared it with the board.

“Living through a traumatic event is hard enough for an officer. Admitting that you are having problems related to that event is even harder.”

Mr. Norris concluded by saying he thought the board could see that.

Mayor Rothschild said that with the testimony closed, open deliberations were to commence. Mr. McEvoy confirmed that.

Mayor Rothschild was of the opinion that there was sufficient evidence to forward the case to Independent Medical Evaluations. He stated it was a bit difficult because two evaluations were needed. Mr. Jesse confirmed that it could take some time because a sequential process was involved. One evaluation had to be concluded before the second could take place.

Mayor Rothschild said from what he had heard thus far, he would like to focus on, one, the legitimacy and, two, the opportunity to take a person who may not be able to serve certain functions as a police officer and potentially serve in others. That would be what he would like the doctor to principally evaluate. Mr. McEvoy said that would have to be made clear to the medical providers as part of the submission as they may operate on assumptions that a police officer only does certain things and not others. It would have to be clarified that the standard is job classification and the job classification should be included in the submittal. Mr. McEvoy did advise caution if it is true that a police officer

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with a desk job could be called into action. Mayor Rothschild commented that it should all be laid out for the medical providers. Mr. McEvoy confirmed and said the medical providers would not necessarily know that intuitively.

Mr. Parks stated that he had concerns about the legitimacy of the claim. He felt that spending six years in the Marines has to be considered as part of this. He said that if you look at it, Mr. Fedor did not spend much time in the field as a police officer when you consider the time spent in the academy and training. Mr. Parks noted that Mr. Fedor's resignation letter reflects no mention of his condition and it says he was leaving to pursue a law degree. Mr. Parks said that all documentation from Mr. Fedor's medical providers states that he cannot perform the functions of a police officer. None of them state that he cannot work, that he cannot perform a function, that he cannot have a job. Nobody states that he is permanently disabled from entering the workforce. The limitation is just the police officer role. Now we find that a police officer position encompasses more than just patrol and it is not clear they (medical providers) fully understand it is part of what he

could do - he could be taken out of the field and put at a desk. Nobody addresses that issue. Mr. Parks stated that he is not saying that Mr. Fedor does not have PTSD and was not disturbed by the images he was involved with on the job. Mr. Parks felt other evidence shows that the condition might have begun long before joining the Tucson Police Department. Mr. Parks said that maybe the Tucson Police Department job exacerbated it. Mr. Parks notes that Mr. Fedor states both times, post-incident, he did not have stress at the time. He also noted that several days later Mr. Fedor said his stress was going down. Mr. Parks stated there is conflicting evidence and that is why he himself is conflicted with this.

Mr. Dietsch stated that he also had some legitimacy issues with the claim. He found nothing in the evidence that outlines Mr. Fedor's military background, other than transport, which he included in his application to become a police officer and his resume so the board does not know what happened prior to becoming a police officer. Mr. Dietsch said that Mr. Fedor had some training day one on what is called being a warrior. In that training, one is told the things that would be seen – it is either fight or flight. It is explained that police officers look at a lot of ugly things every single day. Mr. Dietsch continued that trainees are asked to make up their mind if this is what they want. If it is not, then is not appropriate for time to be spent on training and for someone else to be denied the opportunity. Mr. Dietsch noted that in Mr. Fedor's Officer's Report (resignation letter) there is no mention of the condition when he exited. In reading through it, Mr. Dietsch came to the conclusion that it basically says he is leaving for greener pastures – he is going to pursue something else because that is what he wants to do.

Mayor Rothschild asked if anyone else had something to say.

Ms. Hill stated that she felt Mr. Fedor was a bright young man and could have a positive future. There could possibly be a reasonable accommodation made with a determination of

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what types of functions he can perform. It may not be as a commissioned officer. It could be as a civilian employee. Ms. Hill felt that should be explored for Mr. Fedor.

Mr. Parks noted Mr. Fedor's degree in criminology and felt that would support a civilian position if he were open to it.

Ms. Hill commented that there a lot of people with mental impairments that do great work. She stated that if the board voted to send Mr. Fedor for Independent Medical Evaluations we could ask them to look at that.

Mr. McEvoy stated that the word civilian suggests to him a role that is outside of the public safety person's job classification. Mr. Dietsch confirmed that. Mr. McEvoy stated it is not a civilian role with accommodation that would be under consideration – it is the job classification as commissioned police officer. Mr. McEvoy vetted the civilian role issue further in discussion with board members. He reaffirmed that the civilian role is not relevant to this inquiry because it is not within Mr. Fedor's job classification as a police

officer. Mr. McEvoy explained that Mr. Fedor could be employable somewhere else but that does not fall within the narrow band prescribed for this case. Mr. McEvoy explained that are other statues (he thought they might be in the plan for corrections officers) that have a wider band that can be considered. In Mr. Fedor's case the statutory requirement is his job classification as a police officer. Even though there is some movement possible within it, it is still a commissioned position as opposed to a civilian position.

Mayor Rothschild indicated that a motion was needed either to uphold the initial decision or to reverse it and refer Mr. Fedor for Independent Medical Evaluations

Motion was made by Ms. Hill, seconded by Mayor Rothschild, to refer Mr. Fedor to independent medical examiners for further evaluation. **Motion FAILED 2-3** with Mr. Parks, Mr. Dietsch, and Mr. O'Hara dissenting.

With the motion failing to pass, Mayor Rothschild stated the board has upheld its initial decision (rendered at the April 5, 2016 board meeting) to deny Mr. Fedor's application for Accidental Disability retirement.

Mayor Rothschild mentioned to Mr. Fedor that appeal rights existed. He also mentioned a copy of the record is available. Mr. McEvoy clarified that the record is an audio record that can be made available upon request – of the open meeting portion. Mr. McEvoy stated that in the event of an appeal to the court a transcription of the audio record would be needed.

8. FUND/OFFICE INFORMATION

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- Status of after tax payroll deduction for service purchases

Mr. Jesse submitted a request to payroll to have a code implemented for after-tax payroll deductions to be used for service purchases. He is still waiting for a testing environment to be created. There is no word as of yet as to when this would be available.

Mr. Jesse also touched on the steps needed for implementation of the changes brought about by the passage of SB 1428 (pension reform) that had been outlined in a previous summary provided to board members. He thought it could be beneficial for the parties involved in the changes if he created a matrix, supplementing his initial summary, to serve as a “snapshot” that might more simply communicate the issues.

9. ADJOURNMENT

The next regular meeting of the Tucson Police and Fire Public Safety Personnel Retirement System Boards is scheduled for **9:00 a.m. on Tuesday, October 4, 2016**, in Fire Central **Room 121**, Tucson Fire Department, 300 S. Fire Central Place, Tucson, AZ.

Mayor Rothschild adjourned the Police and Fire Boards at 10:19 a.m.

Michael J. Jesse, Board Secretary

Date

Jonathan Rothschild, Chairman

Date

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