

**MINUTES
SPECIAL PENSION BOARD MEETING
CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND
MONDAY, NOVEMBER 28, 2016**

1. CALL TO ORDER

Chair Shaw called the meeting to order at 4:06 p.m.

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Board Members present: Chair Phyllis Shaw, Vice-Chair Jeffrey Greene, Chris Cassidy, George Keller, Charles Howell (via telephone), and Richard Templeton. Board member(s) absent: Mel Standley. Also present: Pension Coordinator, Lisa Castronovo and Board Attorney, James Linn.

3. DISABILITY APPLICATION – Ifatunbi Adefunmi

Chair Shaw turned the meeting over to Mr. Linn so that she could participate in the discussion.

Mr. Linn reminded the Board that the meeting was a continuation of the initial disability hearing for Ms. Adefunmi's disability application which started at a September 8, 2016 special Board meeting.

Mr. Linn referred to Ordinance Section 33.025(L)(1) which states "upon total and permanent disability of a member by reason of injuries sustained while in the performance of an act of duty as an active employee of the City, resulting in the inability of the member to perform the specific duties of his or her position in the service of the City, then such member shall be entitled to a disability retirement benefit." Mr. Linn continued by stating there were three different parts of the referenced Section that the Board must consider: 1) is the disability total and permanent, 2) was the injury sustained while in the performance of an act of duty as an active employee of the City, and 3) is the result the inability of the employee to perform the specific duties of his/her position with the City.

Mr. Linn reminded the Board the Ordinance states the Director of Human Resources makes the final determination regarding the ability of the member to perform the specific duties of her City position. Further, the Board's By-Laws and Operating Procedures states the only evidence to be considered at an initial hearing is information contained in the employee's pension file including correspondence and medical records and evidence received from the applicant.

Director of Human Resources Tammie Hechler summarized her November 15, 2016 letter by specifically noting that, based on all of the submitted medical information, she had determined Ms. Adefunmi was unable to return to the City and successfully perform the particular duties of her administrative secretary position. Ms. Hechler further noted that based on Ms. Adefunmi's past disciplinary issues with the City and subsequent discharge, the City was not in the position to offer any alternative positions of employment to Ms. Adefunmi,

When asked by Mr. Templeton, Ms. Hechler stated Ms. Adefunmi was not eligible to be rehired by the City in any position due to Ms. Adefunmi's past disciplinary issues.

Attorney Barbara Duffy spoke on behalf of Ms. Adefunmi. Ms. Duffy stated the first independent psychiatrist selected by the Board, Dr. Gil Lichtshein, determined Ms. Adefunmi's disability to be duty-related, total and permanent and Ms. Adefunmi should be granted a duty disability benefit. The second independent psychiatrist selected by the Board and the City, Dr. Juandalyn Peters, stated Ms. Adefunmi was currently unfit to serve as an administrative secretary but Dr. Peters did not consider Ms. Adefunmi to be permanently disabled based solely on her inability to receive psychiatric treatment for a period of months due to her lack of medical insurance. Ms. Duffy noted that Dr. Peters did not state in her report whether Ms. Adefunmi's disability was duty-related or nonduty-related, but that both Ms. Adefunmi's doctor, Dr. Adriana Foster, and Dr. Gil Lichtshein, stated Ms. Adefunmi was totally and permanently disabled due to a duty-related disability and therefore, Ms. Adefunmi should be granted a duty-related disability benefit.

Ms. Duffy voiced her objection to the Board considering any evidence submitted by the City as such consideration was in violation of the Ordinance and the Board's By-laws and thus was wholly inappropriate.

Mr. Templeton referenced Dr. Foster's report which noted Ms. Adefunmi had not reached MMI and that she might improve if she tolerated medication and obtained regular therapy.

Ms. Duffy stated that based on the evidence before the Board, the Ordinance, and the fact the Director of Human Resources noted the City did not have a position in which they could place Ms. Adefunmi, the Board should grant Ms. Adefunmi a duty-related disability.

Mr. Keller requested Ms. Hechler to expand on a form she referenced showing Ms. Adefunmi's issues stemmed back to something that happened in her adolescence. Ms. Hechler responded the form – American with Disabilities Act (“ADA”) Employee Accommodation Medical Certification Form – was completed by Dr. Foster, a physician of Ms. Adefunmi's choice. Ms. Hechler said the form was submitted as an accommodation request. Dr. Foster noted on the ADA form that Ms. Adefunmi's PTSD disorder began at age 13 and her major depressive disorder began fourteen years ago, with both onset dates predating Ms. Adefunmi's employment with the City.

Mr. Keller noted that Dr. Peters stated Ms. Adefunmi had not reached MMI largely due largely to the fact that she had not received treatment. Ms. Hechler stated part of what the Board must consider is whether an applicant has reached MMI.

Ms. Duffy objected to the reference to the ADA form because the form was not prepared as part of Ms. Adefunmi's disability application and thus has nothing to do with the application. Mr. Linn responded that Ms. Duffy's objection was noted but the ADA document was part of Ms. Adefunmi's file and thus could be considered by the Board.

Deputy City Attorney Alan Fallik, representing the City, stated the Pension Coordinator selected Dr. Peters and the City agreed with the selection. Mr. Fallik pointed out that Dr. Foster completed the ADA form on or around January 21, 2016 and noted that Ms. Adefunmi's mental impairments of PTSD and MDD started at age 13 and 14 years ago, respectively. However, since Dr. Lichtshein's report, completed on or around March 29, 2016 makes no mention of either impairment thus indicating he did not have the ADA form and further that Ms. Adefunmi did not inform him of issues stemming back to her adolescence.

Ms. Duffy objected to Mr. Fallik's interpretation of the submitted reports.

Mr. Keller said he would like to see Ms. Adefunmi get the suggested medical treatment since one of the physicians stated she had a good chance of responding well to treatment and would be much improved following the treatment. Until such treatment was received, however, he could not support Ms. Adefunmi's disability application.

MOTION made by Mr. Keller, seconded by Chair Shaw, to deny Ms. Adefunmi's duty disability application.

Mr. Templeton asked Ms. Hechler if Ms. Adefunmi was eligible to seek psychiatric treatment under Workers' Compensation. Ms. Hechler responded she did not know and would have to check the status of the Workers' Compensation claim but Workers' Compensation would not provide treatment for pre-existing conditions.

Chair Shaw and Mr. Templeton asked Ms. Hechler if Ms. Adefunmi was eligible for medical insurance through her spouse, a retired City firefighter. Ms. Hechler responded she was eligible. Mr. Templeton stated his concern that it appeared Ms. Adefunmi had not made any attempt to get better via medical treatment even though her physician stated she might get better if she got treatment.

Mr. Keller stated it was not appropriate for Ms. Adefunmi to request a disability retirement benefit when she had not gotten the treatment she was told to get which might help her get better to the point she would not need a disability benefit. If after treatment, Ms. Adefunmi was not better, then her case for a disability benefit would be bolstered, but until she sought treatment, he could not support a disability benefit for her.

Discussion followed regarding medical records requested, gathered and submitted for consideration.

In answer to questions posed by Vice-Chair Greene, Mr. Linn stated that if the Board denies Ms. Adefunmi's disability application, she may refile a disability application in the future if there is new information supporting the application. Alternatively, if the Board approves Ms. Adefunmi's disability application, the Board has the right to send Ms. Adefunmi for a follow-up physician examination to determine if she has improved to the point the disability benefit can be ceased.

Mr. Cassidy asked if a Workers' Compensation claim had been filed by Ms. Adefunmi regarding the PTSD claim and did she see a Workers' Compensation physician. Ms. Hechler replied she knew there was a Workers' Compensation claim but she did not know the specifics of the claim nor did she know the cause of the workplace injury. Ms. Hechler added she knew accommodations had been requested.

In a voice vote by the members present, Motion passed 5-1 (Chris Cassidy voted in opposition).

Vice-Chair wanted to know if it was appropriate for the Board to send a letter to Ms. Adefunmi reiterating the Board's recommendation that she seek medical treatment. The Board collectively agreed that it was not the Board's business to do so. Vice-Chair Greene stated he felt the Board had a moral responsibility to help the Retirement Fund's members and specifically Ms. Adefunmi.

Discussion continued regarding disability procedures and specifics of Workers' Compensation claims for duty-related disability applications.

4. **ADJOURNMENT**

MOTION made by Vice-Chair Greene, seconded by Mr. Templeton, to adjourn the meeting. In a voice vote by the members present, **Motion** passed 6-0. Meeting adjourned at 5:55 p.m.



Phyllis Shaw, Chair

Date

12/15/2016