CITY OF MIDDLETOWN
MINUTES OF THE RETIREMENT BOARD
SPECIAL MEETING
November 6, 2014

The Special (quarterly) Meeting of the Retirement Board of the City of Middletown was held in room 208 of the Municipal Building on Thursday, November 6, 2014 at 1:30pm.

Board Members Present: Mayor Drew, Jim Reynolds, Hope Kasper, Carl Erlacher, Sandra Russo-Driska, Steve Gomes
City Employees/Public/Others Present: Mike Timbro, Francesca Quaranta, Gino Pulvirenti, Kathleen Morey, Anthony Gennaro – President Local 1361, Chris Lavoie, Brig Smith, Corimae Pulvirenti, Alex Gecan (Middletown Press), Shawn Beals (Hartford Courant), David D'Amico, Andrew Houlding – Counsel for Lavoie & Pulvirenti, Bruce Barth (Robinson & Cole), Cynthia Christie (Robinson & Cole), Michael McAuliffe (Pomeranz, Brayton & Stabnick), Richard L. Aiken, Jr. (Strunk, Dodge, Aiken, Zovas), Eric Brown (AFSCME Council 15)
Board Members Absent: Joe Serra

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- **Meeting was called to order at approximately 1:30 pm**
- **No public comments on the agenda**
- **Executive Session Items** – pursuant to C.G.S. 1-200(6) to discuss duty disability retirement requests

  Chris Lavoie – Open Session
  - Sandra motioned to go into Executive Session and was seconded by Hope
  - Attorney Houlding (Counsel for Lavoie) waives Executive Session
  - Jim recommends a vote to recess to review (the packet with IMEs/medical reports distributed to the Board by Human Resources), Hope moves and is seconded by Sandra
  - Carl suggests applicant's attorney receive same packet received by Board
  - Hope motions to recess for 15 minutes to review
  - Mayor asks for clarification that Board will recess for each applicant to review new information
  - Sandra seconds motion to review
  - All in favor

  - Jim calls meeting back to order at 2:05 pm
  - Discussion about thoroughness and accuracy of new IME; information that was provided to IME physician; standard practice of what information is forwarded from City to IME physician; FCE (Functional Capacity Exam) completed by Ofc. Lavoie; procedure of how an IME physician(s) is/are chosen; specific comments in new IME; medical reports previously provided to Board and prior FCE
  - Jim states majority of Board is not ready to vote on issue and should disability application be tabled until other (previous) reports are provided to Board
  - Mayor states that he believes the Ordinance standards have been satisfied, full and permanent disability was not determined in IME; at 9/3 meeting it was decided that opinion of treating physician would not be used
  - Jim asks if Board wants additional (previous) information, Hope moves that additional (previous, not new) information be provided through agreement of two attorneys (Smith and Houlding) and table decision to a date when Board has all info and was seconded by Sandra
  - 4 In Favor – Chris, Sandra, Hope, Jim
  - 3 Opposed – Mayor, Carl , Steve
  - Mayor amends motion that Finance schedule a meeting for no earlier than 11/24 per request of Board Members Russo-Driska and Kasper and was seconded by Sandra
  - All in favor

- For the record, Steve Gomes left meeting after first vote

Gino Pulvirenti – Executive Session

- Mayor motions to take 20 minute recess to review medical reports (distributed at beginning of meeting) and was seconded by Hope
- All in favor

- Meeting called to order
- Sandra motions to go into Executive Session and was seconded by Hope
- Mayor amends motion to invite Pension Counsel (Bruce Barth & Cynthia Christie), Workers Comp Counsel (Michael McAuliffe) and whomever applicant wants in Session; after objections to Workers Comp Counsel being present, Mayor amends his amendment to include Pension Counsel, Mrs. Pulvirenti, Brig Smith and Kathleen Morey
- Sandra seconded the amended motion
- All in favor

- Sandra motions to go out of Executive Session and was seconded by Hope
- All in favor

- Sandra motions to approve Disability Pension for Gino Pulvirenti as in accordance with the Pension Ordinance, Charter and Collective Bargaining Agreement and was seconded by Chris & Hope (simultaneously)
- Mayor states that he does not believe the applicant met standard and will vote 'No'
- 5 In Favor – Sandra, Hope, Chris, Jim, Carl
- 1 Opposed – Mayor

Francesca Quaranta – Executive Session

- Sandra motions to take 15 minute recess to review medical reports (distributed at beginning of meeting) and was seconded by Chris
- All in favor

- Meeting was called to order at 3:40 pm
- Sandra motions to go into Executive Session and allow Pension Attorneys, Brig Smith, Kathleen Morey and Attorney Brown and was seconded by Chris
- All in favor

- Sandra motions to go out of Executive Session and was seconded by Hope
- All in favor

- Hope motions to seek a 3rd opinion (IME) and was seconded by Sandra
- Mayor states that he believes the Pension Ordinance is clear and not necessary to do so (seek 3rd opinion) and will vote 'No'
- Applicant questions why information presented (in Executive Session) was not sufficient for approval of disability but sufficient for termination
- Mayor suggests going back into Executive Session but Ofc. Quaranta states that it can be public (waives privilege)
- Mayor asks for and receives confirmation from Brig that there are no legal prohibitions to clarifying or answering question out of Executive Session
- Discussion continues in re to previous medical report and the relevance they served in termination and not in disability application; and that City offered Ofc. Quaranta multiple opportunities to have a second IME that were not accepted
- Sandra states that she is uncomfortable discussing a document that is not in front of the Board and that is medical privilege and calls for document that is being discussed; Mayor states that the substance of the report is not being discussed and he is clarifying a procedural question

- Discussion continues about the specific medical report and it is stated that the report was presented to the Board at the previous meeting and Board chose to go for 2 IMEs instead; Chris refers to previous hearings (at this meeting) and that all information given is valid, per the decision by Robinson & Cole
- Pension Atty. Barth states the Board can review information it determines to be appropriate
- Previous motion to Commission a 3rd IME voted on
- 2 In Favor – Hope, Jim
- 4 Opposed – Sandra, Chris, Mayor, Carl

- Discussion about document continues
- Carl motions to allow Ofc. Quaranta to provide additional information to Board and was seconded by Sandra
- All in favor, motion carries

- For the record, Brig leaves to retrieve document for review by Board

  - Mayor suggests a motion to recess, Sandra motions to recess to review document and was seconded by Hope
  - All in favor

  - Meeting is called to order
  - Hope motions to reconsider (3rd IME) and was seconded by Sandra
  - Mayor discusses specific statements in report and that the results do not satisfy Pension Ordinance and will vote 'No'
  - Vote called for Motion to reconsider 3rd IME
  - Discussion continues about necessity of 3rd IME; Mayor states that Ordinance is satisfied, that the opinion in this IME does not qualify
  - Atty. Brown (Police Union) states that Ofc. Quaranta does not want a 3rd IME but wants a decision; states the language in the (Police) contract in conjunction with language in Ordinance (City rescind pension if person gets gainful employment) must conclude that language in collective bargaining agreement is written for Middletown Police Officers
  - Brig states the clawback provision in Ordinance applies to all contracts, not just Police
  - Hope withdraws motion for 3rd IME
  - Jim asks for vote to approve disability pension, or not, in accordance with information provided and comments from Pension Attorney
  - Chris motions to approve the disability pension and was seconded by Sandra
  - 2 In Favor – Sandra, Chris
  - 3 Opposed – Mayor, Carl, Jim
  - 1 Abstained – Hope (wants 3rd IME - as stated for the record)

- **Adjournment**
  - Jim motions to adjourn and was seconded by Carl & Hope (simultaneously)
  - All in favor

Respectfully submitted:

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Carl R. Erlacher, Finance Director
Tracks MZ 1-20