

**CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS
IN THE CITY OF MIAMI BEACH**

966TH BOARD OF TRUSTEES MEETING

September 19, 2024

***COPIES OF MINUTES ARE BEING
PROVIDED WITHOUT ATTACHMENTS.***

***ALL ATTACHMENTS ARE AVAILABLE
FOR REVIEW AT THE FIRE & POLICE
PENSION OFFICE.***

**966th MEETING OF THE BOARD OF TRUSTEES
CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS
IN THE CITY OF MIAMI BEACH**

September 19, 2024

CALL TO ORDER

Meeting was called to order at 8:31 AM by Chairman Johnson.

Board members physically present and by videoconference were as follows:

FIRE DEPARTMENT

David J. Frazier, Jr.
Paul D. Johnson
Dwight M. Nicholas

POLICE DEPARTMENT

Steven L. Feldman
Daniel D. Molina
James D. Nolan

ADMINISTRATION

Hernan D. Cardeno
Tameka Otto Stewart

Present were:

Stuart A. Kaufman, Esq.	- Attorney, Klausner, Kaufman, Jensen & Levinson (KKJL)
Donna Brito	- Executive Director
Frank Estevez	- Assistant Director
Myriame Jean-Baptiste	- Pension Administrator
Clara La Rosa	- Office Manager

Also present were:

Amida Frey, Esq.	- Attorney, representing retired Firefighter Julio Garcia's children
Christian Garcia	- Son of retired Firefighter Julio Garcia
Jennifer Garcia	- Daughter of retired Firefighter Julio Garcia
Gerald Goldstein	- Retired Firefighter, City of Miami Beach
Teri Guttman Valdes, Esq.	- Teri Guttman Valdes, LLC – Counsel for Michelle M. Sayegh
Jeremy Knox	- Senior Investment Director, Private Equity, Schroeders Capital (US)
Christopher A. Marin	- Former Police Officer, City of Miami Beach
Patricia Reyes Abbondanza	- Spouse of retired Firefighter Julio Garcia
Paul Sasso, Esq.	- The Sasso Law Group – Counsel for Patricia Reyes Abbondanza
Michelle M. Sayegh	- Police Sergeant, City of Miami Beach
Samuel Starkey	- Director, Relationship Management, Schroeders Capital (US)
Brendon Vavrica, CFP	- Senior Institutional Advisor, Mariner

MINUTES

Regular Meeting of the Board of Trustees – August 15, 2024

Minutes from the regular board meeting were distributed as part of the agenda packet. Secretary Feldman made a motion to approve the minutes. The motion was seconded by Trustee Nolan and unanimously carried.

INFORMAL SERVICE-CONNECTED DISABILITY HEARING

Police Officer Christopher A. Marin

Attorney Kaufman recognized that Mr. Marin was representing himself and asked if he was willing to proceed without legal counsel being present. Mr. Marin responded yes.

Attorney Kaufman explained that this is an informal hearing where the Board does not entertain any evidence other than the written material which it has before them plus statements from the applicant. The granting of a disability must be supported by competent substantial evidence. The three criteria to consider

*966th Meeting of the Board of Trustees
September 19, 2024*

for a disability are (1) total, (2) permanent, and (3) service-connected. In this case, the City of Miami Beach has terminated Mr. Marin based upon his inability to perform the essential functions of the Police Officer job classification. Therefore, under Florida Law, the total criterion has been proven. The issue before the Board is to determine whether this disability is permanent and service-connected.

Mr. Marin applied for a service-connected disability based on injuries sustained from an incident that occurred on duty on January 27, 2022. While in pursuit of a robbery suspect, he was struck by another officer's vehicle. He reportedly suffered a loss of consciousness and was taken to the hospital. In the emergency room, he had a head CT which showed a left frontoparietal scalp hematoma. He was discharged following observation. His symptoms include headaches, memory issues, dizziness, blurred vision, sleep disturbances, mood and behavior changes, anxiety, and tinnitus. He has filed a disability application based upon Traumatic Brain Injury (TBI) and Post Traumatic Stress Disorder (PTSD). He underwent an independent medical evaluation (IME) with Dr. Suzanne Hagler, Dr. Cornel Lupu and Dr. Isidro Pujol.

Attorney Kaufman summarized that Dr. Hagler opined that Mr. Marin's presentation is consistent with a TBI due to injuries sustained during the January 2022 incident. While he did suffer from a number of symptoms prior to the incident, there was a clear temporal worsening of all his injuries in relation to the TBI. Although Dr. Hagler did not believe that Mr. Marin was at maximum medical improvement, she felt that even with further treatment it is unlikely he would be able to return to work as a Police Officer.

Dr. Lupu and Dr. Pujol opined that the TBI has resolved itself. They referred to a first neurologist who obtained a normal EEG and BAER test result. Ophthalmology and optometry tests were normal. A first neuropsychologist felt that Mr. Marin was not truthful and invalidated the results of all his tests. A second neurologist sent him for extensive inner ear tests that were normal. A second neuropsychologist's impression was that Mr. Marin felt that he was sicker than he was. There was some confusion from another psychiatrist about Mr. Marin's injuries and history of PTSD. Dr. Lupu and Dr. Pujol reasoned that since the headaches have returned to base level, this is indicative the TBI is resolved. The rest of Mr. Marin's complaints were too nonspecific to form the basis of a lifelong pension.

Attorney Kaufman commented that on Mr. Marin's disability application, he noted that he had sustained "army service-related injuries" including: wrist sprain, tension headaches, right knee meniscal tear, eczema, sleep apnea, PTSD (from the military) and tinnitus. He also cited a few questions from Mr. Marin's pre-employment physical and his responses:

- Do you have any permanent disability/defects from illness, disease, or injury? Mr. Marin replied, "No".*
- Do you suffer from migraine headaches or other bad headaches? Mr. Marin replied, "No".*
- Do you have ringing or buzzing noises in your ears? Mr. Marin replied, "No".*
- Describe anything else, which you feel may be important to your medical history, including any conditions not specifically referred to in the preceding questions. Mr. Marin replied, "N/A".*

When asked about his military service, Mr. Marin stated that he was honorably discharged from the military and started the process to receive military disability benefits after discharge. Mr. Marin was asked if the City of Miami Beach knew about his military PTSD disability when he was hired. Mr. Marin replied that when he took his psychological exam, the City requested his Veterans Affairs (VA) records, so he assumed that they knew of his military disability.

Attorney Kaufman advised that in this case, there is an issue of PTSD. Under Florida law, specifically Chapter 185.18(3)(c), of the Florida Statutes, "A police officer will not be entitled to receive any disability retirement income if the disability is a result of injury or disease sustained by the police officer while serving in any armed forces". However, there is also case law that says the aggravation of a pre-existing condition

*966th Meeting of the Board of Trustees
September 19, 2024*

does not bar a disability pension if the employee was able to and did perform his duties prior to the work-related injury. There are indications in the medical reports that both of these circumstances may be relevant.

There were various discussions about the management of Mr. Marin's medical treatment through worker's compensation and whether or not he actively took steps toward getting the types of mental health education and trauma processing that could help with extreme PTSD events. Mr. Marin remarked that he had to fight for any treatment he received. At first, he was self-isolating and resistant to help because of depression, but he is currently seeing a psychologist and is now aware of treatments.

Regarding the issues of permanence and service-connected, Attorney Kaufman stated that in a situation where the Board is faced with disputed medical evidence or varying opinions by medical professionals, the Board is tasked with determining which professional or evidence they find most compelling, meaning more likely than not that the claim is true, so long as there is competent substantial evidence to support their findings. Thus, the opinion of one medical professional, even if in conflict with other medical opinions, is sufficient for the Board of Trustees to rely upon.

Chairman Johnson remarked that some medical evidence shows that the TBI sustained from getting hit by the car has been resolved. However, what he is struggling with is if the TBI injury exacerbated pre-existing military PTSD. It is also not clear if Mr. Marin can recover to a decent functioning life because all treatment modalities have not been exhausted. There are questions he would like to discuss with the doctors to better understand their thought process in determining permanence and service connected.

Secretary Feldman agreed that there are still some unanswered questions. Because of the potential stigma associated with the veracity of the claim, it is the Board's fiduciary duty, to Mr. Marin and all the members of the Plan, to have all questions answered before either granting or denying the disability.

There were various discussions about how to proceed.

Trustee Frazier made a motion to accept Mr. Marin's disability notebook, including his application, medical records, and the medical professionals' reports into evidence. The motion was seconded by Trustee Nolan and unanimously carried.

Trustee Nolan made a motion to grant Christopher A. Marin a total, permanent and service-connected disability. The motion was seconded by Trustee Molina. Roll was called:

<i>Trustee Cardeno</i>	<i>No</i>
<i>Secretary Feldman</i>	<i>Yes</i>
<i>Trustee Frazier</i>	<i>Yes</i>
<i>Chairman Johnson</i>	<i>No</i>
<i>Trustee Molina</i>	<i>Yes</i>
<i>Trustee Nicholas</i>	<i>No</i>
<i>Trustee Nolan</i>	<i>Yes</i>
<i>Trustee Otto Stewart</i>	<i>No</i>

The motion did not pass by a vote of 4 - 4.

Trustee Feldman made a motion to continue the informal service-connected disability hearing and request that all three IME doctors attend a meeting as expeditiously as possible in order to possibly satisfy some of the concerns of the Trustees that voted "No". The motion was seconded by Trustee Cardeno and unanimously carried.

INFORMAL SERVICE-CONNECTED DISABILITY HEARING

Police Sergeant Michelle M. Sayegh – represented by Teri Guttman Valdes, Esq.

Attorney Kaufman explained that this is an informal hearing where the Board does not entertain any evidence other than the written material which it has before them plus statements from the applicant and the applicant's attorney. The granting of a disability has to be supported by competent substantial evidence. The three criteria to consider for this disability are (1) total, (2) permanent, and (3) service-connected.

Police Sergeant Sayegh applied for a service-connected disability based upon symptoms resulting from a diagnosis of "Long COVID". According to her application, Ms. Sayegh was in close contact with other employees who subsequently tested positive for COVID. She underwent an independent medical evaluation (IME) with Dr. Cornel Lupu, Dr. Isidro Pujol and Dr. Jose Rios.

In summary, the IME evaluation found that this is a difficult case to assess as doctors are still trying to organize and define objective criteria for a diagnosis. Generally, patients who have been very ill with COVID, typically at the onset of the epidemic, or patients who had multiple COVID infections are more likely to develop long COVID. Typically, long COVID seems to be less likely to occur in milder infections and in patients who were vaccinated. However, anyone can develop COVID so it is impossible to rule out a diagnosis. It is tempting to say that Ms. Sayegh was infected by a co-worker, but she could have been infected in any part of her daily routine. According to statistical data on long COVID, she is most likely to recover, and the condition will not be permanent. Ms. Sayegh has post viral syndrome/long covid/chronic fatigue syndrome/myalgic encephalomyelitis that is arguably not service connected, and arguably not permanent. At this point she is unable to serve as a police officer. She can do sedentary duties with severe limitations.

Attorney Guttman Valdes stated that Sergeant Sayegh was evaluated on February 22, 2024, by Dr. Robert Toney M.D. who declared her Medically not Fit for Full duty as a Sergeant of Police. On July 1, 2024, she received a letter from the City of Miami Beach stating that she will be terminated from her position on July 12, 2024, in accordance with City of Miami Beach Personnel Rule X, Separations, Section 2 Removals (b) six: "Has contracted some mental or physical ailment or defect which incapacitates him/her for usefulness in the City service". The City's intention is to terminate her; however, due to several extenuating circumstances, she is still employed by the City.

In addition, the IME report states that, "... 93% of people recover; however, a few are affected for years." Sergeant Sayegh is one of the 7% who has not recovered. It has been more than two years and Sergeant Sayegh still suffers from cardiac arrhythmia, left ventricular dysfunction, high blood pressure, chronic fatigue syndrome, dizziness, and severe dyspnea on exertion. There are no medical treatments that she can undergo to recover to the point that she is able to return to work as a Police Sergeant. Trustee Nolan acknowledged that most people recover, but the department has had one officer die and another officer spent seven weeks in a coma from COVID, so certainly there are exceptions to a recovery.

There were various discussions concerning the timing of her exposure to infected co-workers, the ambiguity of the incubation period, when her symptoms presented and when she tested positive. Trustee Cardeno remarked that unless a Police Officer or Firefighter was off duty for an extended period of time, there is no question that they were exposed to people and situations out in the field that other people were not exposed to. Attorney Kaufman replied that in considering the service-connected criterion, the Board has to decide if it is more likely than not, that Sergeant Sayegh contracted COVID on duty.

Various discussions ensued.

966th Meeting of the Board of Trustees
September 19, 2024

Trustee Frazier made a motion to accept Sergeant Sayegh's disability notebook, including her application, medical records, and the medical professional's reports, into evidence. The motion was seconded by Trustee Nolan and unanimously carried.

Trustee Nolan made a motion to grant Michelle M. Sayegh a total, permanent and service-connected disability. The motion was seconded by Secretary Feldman. Roll was called:

Trustee Cardeno	Yes
Secretary Feldman	Yes
Trustee Frazier	Yes
Chairman Johnson	Yes
Trustee Molina	Yes
Trustee Nicholas	Yes
Trustee Nolan	Yes
Trustee Otto Stewart	Yes

The motion unanimously carried. Sergeant Sayegh was granted a service-connected disability based upon all three criteria being present.

DEFERRED RETIREMENT OPTION PLAN (DROP) – APPROVAL OF ENTRY

Police Officer Shelton K. Thomas retired under the DROP program effective September 1, 2024, in accordance with the Miami Beach Code, Section 66(a) and Section 79. Officer Thomas had 20 years and 6 months of pension service and met the eligibility for retirement by Tier 1 and attainment of age 50.

Trustee Molina made a motion to approve the pension service retirement for Officer Thomas and grant entry into the DROP. The motion was seconded by Trustee Nolan and unanimously carried. (Attachment #1-1 Schedule A)

COMMENCEMENT OF PENSION

Fire Chief Virgilio Fernandez, who was retired under the DROP program, resigned from City employment effective August 31, 2024. He is eligible to commence his monthly pension in accordance with the Miami Beach Code, Section 66(a) and Section 79.

Fire Division Chief Juan L. Meizoso, who was retired under the DROP program, resigned from City employment effective August 31, 2024. He is eligible to commence his monthly pension in accordance with the Miami Beach Code, Section 66(a) and Section 79.

Secretary Feldman made a motion to approve the commencement of pension for Chief Fernandez and Division Chief Meizoso. The motion was seconded by Trustee Frazier and unanimously carried. (Attachment #1-1 Schedule A)

LUMP SUM REFUND

Former Police Officer Madison M. Barberio's last day of work was April 26, 2024. As a Tier 5 member with less than 10 years of pension service time, she was not vested. Ms. Barberio requested a lump sum refund of her employee contributions with interest.

Trustee Nolan made a motion to approve the lump sum refund of employee contributions with interest to Madison M. Barberio. The motion was seconded by Secretary Feldman and unanimously carried. (Attachment #1-1 Schedule A)

DECEASED

Retired Firefighter Julio E. Garcia passed away on August 11, 2024

1. Approval of beneficiary benefits – Discussion and possible action

Retired Firefighter Julio E. Garcia passed away on August 11, 2024. Widow Patricia Reyes Abbondanza submitted a claim to receive beneficiary benefits under the Code of the City of Miami Beach, Section 66.1 and 69(a)(1)(A). In order for a benefit to be awarded, the definition of Surviving Spouse as defined in Section 62 of the Plan Document, has to be met:

“Surviving Spouse shall mean the lawfully wedded spouse of a member of the System living with the member at the time of the member’s death.”

This matter came before the Board because at the time of his death, Mr. Garcia was married to Mrs. Reyes Abbondanza. However, in Mrs. Reyes Abbondanza’s affidavit filed with the Plan, she specifically acknowledged that she was not living with the member at the time of his death. She also filed a letter explaining why she was not living with the member at the time of his death.

Julio Garcia’s daughter and son were present at the meeting in person and read statements detailing why Mrs. Reyes Abbondanza should not be entitled to Surviving Spouse benefits. Mrs. Reyes Abbondanza and her attorney, Paul Sasso, were also present virtually and gave statements to support Mrs. Reyes Abbondanza’s claim.

Attorney Kaufman advised that although there may have been proper reasons as to why Mrs. Reyes Abbondanza was not living with Mr. Garcia at the time of his death, the plain language of the Plan does not provide for a benefit in this instance. Mrs. Reyes Abbondanza’s letter specifically states that she moved to a location far from South Florida on May 15, 2024, approximately four months prior to Mr. Garcia’s death, and started legal divorce proceedings.

There were various discussions.

After considering the specific language of the Plan and by Mrs. Reyes Abbondanza’s own affidavit indicating that she was not living with Mr. Garcia at the time of his death, Secretary Feldman made a motion to discontinue the monthly pension benefit for Julio E. Garcia, as there are no beneficiaries under the Plan. The motion was seconded by Trustee Cardeno and unanimously carried. (Attachment #1-1 Schedule A)

Attorney Kaufman stated that he will prepare an Order Denying Surviving Spouse Benefits. In the event that Mrs. Reyes Abbondanza wishes to challenge the Order, she must do so by filing a request for a formal hearing with the Executive Director of the Board within thirty (30) days of the date the Order is rendered.

Beneficiary Elizabeth W. Rowe (widow of Firefighter Thomas A. Rowe) passed away on August 17, 2024

Beneficiary Elizabeth W. Rowe, widow of retired Firefighter Thomas A. Rowe, passed away on August 17, 2024. Her pension has been discontinued, as there are no other beneficiaries under the Plan.

Trustee Nolan made a motion to stop the monthly pension for Elizabeth W. Rowe. The motion was seconded by Secretary Feldman and unanimously carried. (Attachment #1-1 Schedule A)

FINANCIAL REPORT FOR SEPTEMBER 2024

The Financial Warrants were emailed to the Board for their review prior to the meeting.

Trustee Nolan made a motion to accept the Financial Warrants #5374-5382 as presented. The motion was seconded by Trustee Cardeno and unanimously carried. (Attachment #1)

BUYBACK COVERING THE PERIOD OF AUGUST 16, 2024, THROUGH SEPTEMBER 19, 2024

The following buyback schedule included in the agenda packet was processed from August 16, 2024, through September 19, 2024:

- Buyback of probationary service time with interest at 3%

Trustee Nolan made a motion to approve the buyback shown on the schedule. The motion was seconded by Secretary Feldman and unanimously carried. (Attachment #2)

COUNSEL

Demand Pursuant to Section 16(b) of the Securities Exchange Act of 1934

Attorney Kaufman requested this item be added to the agenda. (Attachment #3)

BLB&G is seeking to possibly assert a derivative lawsuit against Masimo Corporation regarding corporate insider "short-swing" profits. Before such a claim can be asserted, Section 16(b) of the Securities Exchange Act of 1934 requires that a demand be made on Masimo's board. In order to preserve the Board's rights to commence a 60-day window to bring a claim against Masimo Corporation, BLB&G is requesting the Board immediately submit a demand letter.

Attorney Kaufman advised that the Fund has an investment in this company of approximately \$223,000. His recommendation is to approve BLB&G's request.

Secretary Feldman made a motion to proceed with Attorney Kaufman's recommendation and to authorize the Chairman to sign the demand letter. The motion was seconded by Trustee Frazier and unanimously carried.

MARINER

BRENDON VAVRICA, CFP – SENIOR INSTITUTIONAL ADVISOR

Review of Logan Capital Management, Inc. passive vs. active investing – Discussion and possible action

Chairman Johnson deferred this item to the October meeting.

Private Equity Manager

1. **Schroders Capital Management (US) Inc. (Schroders)**
 - a. **Jeremy Knox, Senior Investment Director, Private Equity**
 - b. **Samuel Starkey, Director, Relationship Management, Private Equity**

Last month, Mariner presented an updated pacing model and recommended a commitment of \$10,000,000 to maintain the 3% private equity target allocation within 7 years.

At the Board's request, Schroders Capital Management (US) Inc. presented their fund, Schroder Capital Private Equity Global Direct IV. Once the managers completed their presentation, Mr. Vavrica initiated the Board discussion.

Secretary Feldman made a motion for a third-year private equity commitment of \$10,000,000 to Schroders Capital Management (US) Inc. – Schroder Capital Private Equity Global Direct IV. The motion was seconded by Trustee Frazier and unanimously carried.

PROPOSED ADMINISTRATIVE BUDGET 10/01/24 – 09/30/25

The Director presented the Proposed Administrative Budget for Fiscal Year 10/01/24 – 09/30/25 and discussed the budget in detail. (Attachment #4)

Trustee Frazier made a motion to approve the proposed administrative budget for 2024-2025. The motion was seconded by Trustee Molina and unanimously carried.

DIRECTOR'S REPORT

Pension Administration Software Progress Report

Director Brito reported:

- The Evaluation Committee, Frank Quintana and Ozzy Macias from the City's IT Department, and Lynchval met on August 21, 2024, to determine where the legacy data and Lynchval data will be hosted. Mr. Quintana confirmed that he preferred that Lynchval control all data on their AWS servers.
- During contract negotiations, Lynchval agreed to absorb the cost of Ellen Shaeffer's consulting services within their \$175,000 implementation fee.
- KKJL is reviewing the final Software License Agreement and Hosting Agreement.

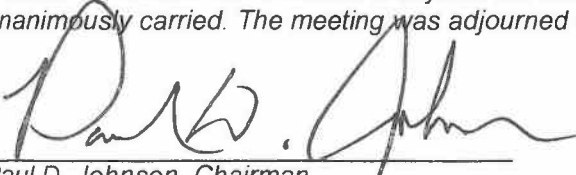
Anticipating KKJL's approval of the Lynchval agreements, Secretary Feldman made a motion to authorize the Chairman to sign the Software License Agreement and Hosting Agreement. The motion was seconded by Trustee Frazier and unanimously carried.

For the Board's information, the following items were distributed as either part of the agenda or meeting packet:

- A. Administrative Budget
- B. Management Fees Fiscal Year vs. Budget

ADJOURNMENT

Trustee Cardeno made a motion to adjourn the meeting. The motion was seconded by Trustee Frazier and unanimously carried. The meeting was adjourned at 12:39 AM.


Paul D. Johnson, Chairman


Steven L. Feldman, Secretary