

**MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF TRUSTEES
NORWOOD PARK FIRE PROTECTION DISTRICT**

The Board of Trustees of the Norwood Park Fire Protection District, Cook County, Illinois convened at the regular meeting place of said Board on the 25th day of May, 2016 at 7:05 P.M. at 7447 W. Lawrence Avenue, Harwood Heights, Illinois, 60706.

The meeting was called to order and upon roll call the following named members answered present:

Roll Call: Trustee Skyba; yes, Trustee Martell; yes,

 Trustee Jarosz; yes, Trustee Strempek; yes,

 Trustee Lympelopulos; yes, Trustee Romano; absent,

 Trustee Kolaski; yes, Attorney Flaherty; yes,

 Chief Stenson; yes.

Also present: Timothy Dawidiuk and Attorney Robert Dawidiuk

The pledge was said at the start of the meeting.

Trustee Martell stated this is not a hearing it is a board meeting. Notice is given to Mr. Dawidiuk that this is a meeting to examine the insurance benefits given to him.

Attorney Flaherty gave a recap of how we got here today. He has his legal opinion of what benefit should be given to Tim Dawidiuk. In 1993 the Pension Board gave him a line of duty disability. What is not clear is how the Board of Trustees handled the medical benefits. Records of the past are not as good as they are today. Since 1993 he has not paid anything towards his medical benefits.

PSEBA was passed in November 1997, this is a law if a Firefighter meets the criteria he is eligible for paid medical insurance until Medicare age. After a thorough search of records, there was no application for PSEBA benefits.

The 2015-2018 CBA speaks about insurance while on disability pension, section 15.04 states that a duty disability pension shall receive the same benefits as active employees. This has been in all of our contracts. It is Attorney Flaherty's feeling that he is to follow this section of the contract under this case. Attorney Flaherty does not have a record for why this happened, there are no minutes of the

board voting on this. Tim Dawidiuk was an active firefighter when there was no contract, but they were in negotiations for their first contract at the time of his injury.

Discussion on catastrophic injury and what qualifies it as that, and that it needs to be in a response to an emergency. There is no previous court ruling with this exact example.

Discussion on other incidents that compare to this injury and the court cases that were ruled on.

Trustee Martell asked what other settlements there were on past insurance benefits. Attorney Flaherty stated there is a statute of limitation on going after back pay and wouldn't suggest going back a long way.

COMMUNICATION WITH AUDIENCE (Public Participation)

A motion was made by Trustee Skyba and seconded by Trustee Kolaski to suspend the rules to permit visitors to be recognized. The Board retains the right to refuse to recognize any individual if they feel their comments are not relevant or to "put them off", if they exceed their time allotment. After all have had an opportunity to address the Board, the President moves the rules be reinstated, and the Board will proceed with meeting.

AYES: 6 NAY: 0

MOTION CARRIED

Attorney Robert Dawidiuk explained his brother and family history in Norridge. He explained his position on how he views the law. Tim was not looking for a way out of his job and for the years he did work received positive evaluations. Speaking of the accident, Tim was in the back of an ambulance that was stopped, when a squad car rear ended the ambulance going between 25-35mph. Three patients were transported to the hospital including Tim. Attorney Dawidiuk states that Tim had back pain and numbness in his legs and was diagnosed with a spinal injury. Tim was then sent to 3 doctors who all said he had a back injury and is totally disabled. There were follow ups with doctors every year that all agreed he was still disabled. He was awarded his line of duty disability in 1992 and the department has been paying 100% of his insurance sent then.

He has asked 3 times why the department is changing their position and what was told to him is not what he was hearing tonight.

Trustee Martell stated that there has not been a decision made.

Attorney Dawidiuk stated that there was no PSEBA law at the time and it was more of an active duty standard. There is case law awarding this benefit of 100% premium paid if someone is awarded a line of duty pension. Discussion on the PSEBA law definition saying it needed to be lights and sirens in a response to an emergency. He was injured by an unlawful act when a car rear-ended him going 25 miles per hour. The case law that Shawn discussed does not show the situation Tim was in. Buffalo Grove had a police officer who was in a squad and was rear-ended while stopped. Buffalo Grove did not agree to pay 100% insurance so the officer appealed to the circuit court who awarded him 100%

insurance. Buffalo Grove still did not agree with the ruling and appealed to the appellate court who agreed with the circuit court.

In 1997 you waived your right to have benefits changed, or you feel that Tim should have filed an application to try and qualify for the new law. There are three different theories there are reasons why this should not be happening.

He asked for list of firefighters who are on disability, Gary Beer went out on disability like Tim did pre-PSEBA and the reason that Gary Beer is still receiving 100% benefits is that he was hurt at a fire or emergency. It was decided that he should be awarded this benefit as should Tim since they were both done pre 1997, there was no PSEBA law to follow. You have established this policy by allowing Gary to have benefits. By allowing Gary to have them and not Tim I question if it is discriminatory.

Attorney Dawidiuk is questioning why the board feels this should be happening, he gave a run-down of Tim's medical history since this accident occurred. He wants the board to know that Tim is not having an advantage by being on disability and would ask for the board to uphold the decision of continuing to pay 100% for benefits. Trustee Lympelopulos questioned if there was a patient in the ambulance.

Attorney Flaherty stated that he wanted to point out that there is no sandbagging. He states that he will defend what the board agrees to do. There is good faith in trying to come to a decision.

Trustee Jarosz asked if being rear ended is considered an unlawful act. Discussion on if someone got a ticket and if it is or not an unlawful act. Trustee Lympelopulos stated that he is looking at it open minded, how would it be if he was standing outside the ambulance? Would he be any less entitled because he did not have lights and sirens? Discussion on test cases.

Attorney Dawidiuk stated that he will not let this go because he feels that his brother is right and he should be awarded this.

Attorney Flaherty discussed some PSEBA cases.

He stated that they have not addressed Gary Beer yet and they will possibly revisit it.

Trustee Martell asked Chief if there was any motions or letters stating that he would be awarded this benefit. The chief stated there is nothing that has been found. Trustee Martell stated that at the time of injury that the benefit was what the benefit was which was a 100% benefit for active firefighters. When the contract changed and firefighters had to start paying, the men on disability should have started paying.

Trustee Skyba stated that the spirit of the contract was to award the disabled firefighter what the active firefighters were getting.

New Business:

Motion by Trustee Strempek and seconded by Trustee Lympelopulos to go into Closed Session for the appointment, employment, compensation, discipline, performance, or dismissal of specific employee (5 ILCS 120/2(c)(1) and Litigation (5 ILCS 120/2(c)(11)).

Roll Call: Trustee Kolaski; yes, Trustee Strempek; yes,
Trustee Romano; absent, Trustee Lympelopulos; yes,
Trustee Skyba; yes, Trustee Jarosz; yes,
Trustee Martell; yes.

AYES: 6 NAY: 0

MOTION CARRIED

Went into Closed Session at 8:19 pm

Return to open session at 9:12. No votes taken. No decisions made.

Roll Call: Trustee Skyba; yes, Trustee Martell; yes,
Trustee Jarosz; yes, Trustee Strempek; yes,
Trustee Lympelopulos; yes, Trustee Romano; absent,
Trustee Kolaski; yes, Attorney Flaherty, yes,
Chief Stenson; yes.

Motion by Trustee Lympelopulos and seconded by Trustee Kolaski to table taking action on Tim Dawidiuks insurance benefits.

Roll Call: Trustee Kolaski; yes, Trustee Strempek; yes,
Trustee Romano; absent, Trustee Lympelopulos; yes,
Trustee Skyba; yes, Trustee Jarosz; yes,
Trustee Martell; yes.

AYES: 6 NAY: 0

MOTION CARRIED

Motion was made by Trustee Jarosz and seconded by Trustee Lymperopulos to adjourn the meeting.

AYES: 7 NAY: 0

MOTION CARRIED

Meeting adjourned at 9:14 P.M.

Andy Skyba
Secretary

Robert Martell
President