

**City of Cocoa Beach
POLICE BOARD
Disability Not in Line
MINUTES
November 5, 2024**

PD: T. Blair, Kris Kuehn,(Absent),Dan Adovasio , William Stanley, Joseph Smith
Pedro Herrera, Board Attorney by phone, Kirk Wertz, Applicant, present, along
with wife

- A. Roll Call
- B. Public Comments- Chairman advised that the Board is hearing an informal hearing on the Amended Disability Hearing for Not -In Line of Duty
- C. Attorney Pedro Herrera went over the Records of the Application= Not Line of Duty. Does the Applicant want to Amend to Not in Line- Ans: Yes from K. Wertz.
This is an informal hearing to review the medical records to determine whether this is Not in Line of Duty, Deny motion, or table.
If a formal hearing is requested then the applicant would be the one to get court reporter/ Special Attorney, witness, and depositions, very expensive.
- D. If the Board denies- applicant has the right to appeal the hearing, then it goes to Formal Hearing. Upon conclusion if denied again, it can be appealed to Circuit Cour. The judge would make recommendations to follow but can't make order.

Before the Board you have all the medical records, hospitals, urgent medical care, copy of the IME Report, physical reports, and the Amended application, along with NSI Report that was not included in last package.

The IME Report has 5 questions that were answered for the Board Review.

1. Has applicant suffered an illness or injury?
2. If applicant suffered an illness or injury, was it suffered in the line of duty (caused by the performance of duty) or by other causes
3. Does the illness or injury cause applicants any disability
4. If an applicant is suffering from disability, is the disability permanent or is reasonable likelihood can condition improve with treatment. Has applicant reached maximum medical improvement- see subsections a,b,c,d,e.
5. Is applicant totally and permanently disabled from performing the duties of a Police Officer

Applicants are allowed 15 minutes of presentation.

2. Non-in-line the calculations are bases on credited years of service, and they pay taxes.

The member can Amend the Application for Not in Line of Duty

Applicants are allowed 15 minutes of presentation.

He claims he did not have hypertension when he started CID and he walked into over 100 cases. He discussed supervisors coming down on him for unknown reasons. He is taking medications for his hypertension, and it is not helping. He rambled on and had to be brought back to discuss current problems.

Discussed Hypertension- per ordinance any conditions or impairments of health of a member caused by hypertension or heart disease shall be presumed to have been suffered in line of duty unless the contrary is shown by competent evidence, that the exam failed to reveal any evidence of such condition shall not apply to benefits payable or granted.

Upon hearing all evidence, a Motion by K. Kuehn is to deny in line of disability and 2nd by J. Smith all in favor 3.

K. Wertz advised he would like to amend the In Line to Not in Line at this time. Attorney Herrera advised he could, and the Board can make that decision at this time.

Chairman K. Kuehn advised he was not comfortable making that decision at this time and wanted to see amended application.

K. Kuehn made motion to continue the hearing at a later date, 2nd by W Stanley. All in favor 3.



Chairperson or Secretary
Kris Kuehn