

THE CITY OF HOLLYWOOD POLICE
OFFICERS' RETIREMENT SYSTEM
BOARD OF TRUSTEES MEETING

IN RE: STEVEN SPARKMAN,
LUIS A. ORTIZ, JOHN KIDD,
ARNOLD CAMPBELL, DANIEL CASEY,
DANA DOKLEAN and MICHAEL MCKINNEY

TRANSCRIPT OF MEETING

DATE TAKEN: Friday, August 20, 2021
TIME: 10:30 a.m. - 11:00 a.m.
PLACE: 4205 Hollywood Blvd., #4,
Hollywood, FL

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were reported by:

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CATHLEEN MARANO, CHAIRMAN
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1 (Whereupon, the following proceedings were
2 had.)

3 CHAIRMAN MARANO: We're going to go down to 7,
4 old business, the corrections matter.

5 MR. KAUFMAN: Let the record reflect that we do
6 have a full board. Dave Strauss is attending via
7 video or phone conference. The matter before you
8 today is to make a decision on the outstanding
9 correctional matter claim. Counsel for the
10 claimants and Counsel, special Counsel for the
11 board are present. Two days ago Counsel for the
12 claimants filed a -- with a notice of filing filed
13 a PERK verification of election results, a
14 certification of exclusive collective bargaining
15 representative, so copies of that have been
16 distributed to you.

17 I would give the opportunity both to Mr. Dutko
18 and Mr. Daragjati to make any final closing
19 statements and address the notice of filing as
20 well. And then if the trustees have any questions
21 for Counsel, either Mr. Dutko, Mr. Daragjati or
22 myself, that's the time to ask any questions.

23 And then a motion would be in order to either
24 grant the claim or to deny the claim. You do have
25 also the proposed orders that were filed by

1 Mr. Dutko and Mr. Daragjati. You would not adopt
2 the exact proposed order. But we would use that -
3 our firm would use that once you make a decision,
4 we would incorporate the proposed order into our
5 final order. If you deny the claim, the matter is
6 subject to appeal in the Circuit Court sitting in
7 their appellate capacity.

8 If you grant the claim, that's the end of the
9 story today.

10 So Madam Chair, I would turn the floor over to
11 Mr. Dutko first to make any final closing
12 statements, and then Mr. Daragjati, and then
13 Mr. Dutko will have some rebuttal argument.

14 Wherever you're comfortable, Mr. Dutko.

15 MR. DUTKO: I'll be very short and
16 sweet with my comments. You have both of the
17 proposed orders. You were here for the hearing
18 back in April when we went through and provided
19 testimony and legal arguments here. If you've read
20 the proposed order, I think, you'll see that
21 Mr. Daragjati's order makes the point that we are
22 asking you to rewrite the definition of police
23 officer, we're asking you to rewrite or
24 re-interpret the definitions under Florida statutes
25 and under City Code; and that's not accurate.

1 Our position all along, and I think it's the
2 position that's supported by the evidence that's
3 been presented to you, is that the applicants here
4 meet the definitions, both under City Code and
5 under Florida statutes. They are not corrections
6 officers. These officers who were labeled
7 detention officers with the City of Hollywood had
8 duties and responsibilities that were far different
9 from those of typical corrections officers who
10 worked in correctional institutions throughout the
11 state.

12 They, I think, can most reasonably be described
13 as providing direct assistance to officers in the
14 arrest process before the arrestees are taken to
15 the Broward County Main Jail for booking purposes.
16 They provide direct assistance to these officers in
17 that arrest process. In addition to that, they
18 have duties and responsibilities that far surpass
19 those of typical correctional officers including
20 being issued a firearm, duty belt body armor,
21 having the power to arrest, complete probable cause
22 affidavits, issue notices to appear both inside and
23 outside of the City -- outside the City Jail, being
24 entrusted with the care, control and custody of
25 arrestees prior to those arrestees being

1 transferred to the Broward County Main Jail for
2 detention purposes.

3 And I just point out again, no arrestees were
4 every housed overnight or fed within the City Jail.
5 It wasn't a correctional institution. It's not a
6 correctional facility. It was a place where
7 arrestees sat until they could be moved for booking
8 purposes to the Main Jail.

9 The detention officers were required to
10 complete the same in-service training as those
11 given to the title -- those that had the title of
12 police officers in the City of Hollywood. They
13 were under the direct command of the police patrol
14 section. They were required to drive marked police
15 vehicles while on duty, and they participated
16 directly in operations with police officers.

17 There was case law that had been cited when
18 this first came to you over a year ago at this
19 point. Three cases in particular that was argued
20 to you that those cases support denying the
21 applicant's request. As we argued on the record,
22 as is part of our proposed order, those cases don't
23 support that decision.

24 First off, I don't believe they're applicable,
25 period, to this board's discussion today. I don't

1 think they have precedential value there. And even
2 if they do, I think they support the request. The
3 City of Hollywood has created a definition for
4 police officers and they created a classification
5 of employees whose duties and responsibilities meet
6 that definition of police officer; therefore they
7 are police officers.

8 In the notice of filing that we sent, if you're
9 looking at the first page, it's actually a little
10 confusing because it's all part of one document,
11 but it's the second page that has any relevance
12 here, the second and third pages, that is.

13 This is a PERK verification of election results
14 actually in the City of Hollywood in 1997, where
15 corrections officers and corrections Supervisors
16 voted to become a member of the P.B.A. Collective
17 Bargaining Agreement. So for purposes of -- I know
18 there was a concern as to what PERK thinks about
19 all this, what happens under Chapter 185. For
20 purposes of this, PERK has already recognized that
21 the correct bargaining unit for these employees is
22 the Police Benevolent Association per the vote that
23 happened back in 1997.

24 Now, I don't think that that directly requires
25 you to make one decision or another, but I do think

1 it's pretty convincing circumstantial proof that a
2 ruling today in favor of the applicants would be
3 consistent with how PERK has interpreted this
4 situation and consistent with the definitions under
5 Florida statute and City Code.

6 There was some time given in Mr. Daragjati's
7 proposed order about the issue of circumventing the
8 definitions contained in Chapter 185 and whether
9 that could have some sort of detrimental effect on
10 the pension plan itself.

11 Again, that's not what we're asking. What
12 we're arguing and what we think the evidence
13 supports is that the detention officers at issue
14 here, the applicants at issue here, are police
15 officers for all relevant definitional purposes
16 under Florida statutes and under City Code.

17 We think that that determination is supported
18 by everything that's been presented to you. I
19 don't want to continue to repeat the same argument,
20 so I'm happy to answer any questions the board may
21 have.

22 But just suffice it to say that my clients, the
23 applicants here are police officers as that term is
24 specifically defined by the City of Hollywood and
25 as that term is defined by Florida state statutes.

1 MR. KAUFMAN: Thank you.

2 Mr. Daragjati?

3 MR. DARAGJATI: Sure, if I could just tender a
4 couple of cases to your Counsel, I'll provide them
5 to your clerk. I apologize for not having copies
6 for everybody.

7 But basically in response to the notice of
8 filing that was provided by Mr. Dutko, in 1997,
9 PERK recognized corrections officers as being part
10 of the bargaining unit. That doesn't affect your
11 decision today. And the reason I say that is
12 because in 1991, this first case, which is Florida
13 State Law of Fraternal Order of Police versus the
14 City of Coral Springs, which is found at 17 FPER
15 22054. Basically, what happened was the union in
16 that case alleged that the City unilaterally took
17 actions that put their chapter dollars, their 185
18 money in jeopardy. And PERK basically -- the
19 general Counsel didn't even let it go to a hearing.
20 He dismissed it and stated basically that all PERK
21 is concerned with is whether or not a change to a
22 term or condition of employment was made by the
23 employer.

24 And they base that upon the second case, which
25 I have tendered to your Counsel. And by the way, I

1 have, for the record, I've also tendered both cases
2 to Mr. Dutko.

3 The second case is City of New Port Richey
4 versus Hillsborough County Police Benevolent
5 Association. That's found at 505 So.2nd 1096. And
6 that case was an actual district court case which
7 held that any movement made by an employer that
8 would affect a pension doesn't matter unless it
9 affects a term or condition of employment of the
10 individual officer or member of the bargaining
11 unit.

12 And the reason I bring these up is to say that
13 a determination by PERK regarding who is in the
14 bargaining unit has no real effect on whether or
15 not your chapter dollars will be placed in
16 jeopardy. What we have to focus on, like a laser,
17 is the definition of police officer.

18 And the definition of police officer in Chapter
19 185 and -- I'll be short. I don't want to beat a
20 dead horse. But Chapter 185 is clear that you have
21 to be certified with FDLE. I'm sympathetic to
22 these officers. Again, you guys probably already
23 know my day job is as general counsel to the F.O.P.
24 statewide. I fight for guys to get all the
25 benefits they possibly can.

1 But the fact of the matter is is here, you
2 could take an action that could place your chapter
3 dollars in jeopardy if you find that their time as
4 certified correctional officers can be transferred
5 to this plan. Cannot. I strongly recommend
6 against you voting that way. I stand for any
7 questions if you have any.

8 MR. KAUFMAN: Any rebuttal by Mr. Dutko? And
9 then we'll hopefully get around to reaching a
10 decision.

11 MR. DUTKO: Very briefly. I don't think either
12 of these cases stand for the proposition that
13 you're compelled today to deny the applicant's
14 request. As I told you when I gave you the PERK
15 order, it doesn't require you to find one way or
16 another, but it's pretty circumstantial convincing
17 evidence that nothing you're doing today is putting
18 Chapter 185 dollars at risk. And frankly, I don't
19 even like that argument because nothing has been
20 presented to you to say that Chapter 185 dollars
21 are at risk here. There could have been the
22 opportunity to get an opinion from PERK regarding
23 that. That wasn't done.

24 I think because what we're asking for is
25 reasonable and is supported by the definitions

1 under Florida statute and City Code, we're not
2 asking you to go around what's contained in 185.
3 Our argument is the duties and responsibilities of
4 these particular individuals meet the definition in
5 Chapter 185; and therefore, they are rightfully
6 included within the pension plan under 185.

7 Thank you.

8 MR. KAUFMAN: Any questions for either Counsel
9 Mr. Daragjati or Mr. Dutko?

10 MR. JEFF MARANO: How do we proceed from here?
11 Accept or reject?

12 MR. KAUFMAN: Yes, it would be a motion to
13 either grant the claim or to deny the claim.

14 I will tell you that I reached out to Keith
15 Brinkman from the state and he referred me to the
16 definition of credit and service. And I really
17 think that that paragraph that he referred to has
18 to do with purchasing prior service, which is not
19 really what we're looking at here. We're not
20 looking at police officers purchasing prior
21 service. We're looking at whether or not they met
22 the definition of police officer.

23 But Mr. Brinkman, Keith Brinkman referred me to
24 the definition of credit and service in 185.02
25 Subsection (7)(c) you know, which says: "For

1 purposes of determining credit for prior service in
2 addition to service as a police officer in this
3 state, credit may be given for federal, other state
4 or county service as long as such service is
5 recognized by the criminal justice standards and
6 training commission within the Department of Law
7 Enforcement as provided in Chapter 943; or the
8 police officer provides proof to the Board of
9 Trustees that such service is equivalent to the
10 service required to meet the definition of police
11 officer".

12 The definition of police officer is pretty
13 unambiguous in 185.02 Subsection (16) that it's
14 defined as "any person who is elected, appointed,
15 or employed full time by a municipality who is
16 certified or required to be certified as a law
17 enforcement officer in compliance with Florida
18 statutes".

19 I actually did reach out to FDLE to see if they
20 had any direction for us on this issue. I spoke to
21 general counsel for FDLE, and he's new to the
22 office. He did not really have any guidance. And
23 they don't opine on whether something meets the
24 definition of a police officer according to Florida
25 statute.

1 The only thing he could tell me is with regard
2 to the Florida Retirement System, correctional
3 officers are included as special hazardous duty
4 plan, which also includes police officers and
5 firefighters.

6 If you find that the definition of police
7 officer is unambiguous and required them to be
8 certified, then I think there is evidence and the
9 law to support that decision, in that the
10 definition requires a police officer to be
11 certified as a law enforcement officer in
12 compliance with Florida law.

13 If you determine that the correctional officers
14 met the definition of being -- their service being
15 equivalent to a police officer, I think you could
16 take that position as well. And, you know, we
17 could defend it. I don't know. I can't tell you
18 whether or not the division would have an issue
19 with it and say that if you give these guys
20 credited services you would be violating 185. It's
21 certainly something that is possible. But I can't
22 say that that is something that will happen.

23 MR. JEFF MARANO: Madam Chair, I make a motion
24 that we grant the request.

25 MR. KAUFMAN: Dave, did you want to make a

1 comment?

2 MR. STRAUSS: Can you repeat the motion?

3 MR. KAUFMAN: Trustee Marano just made a motion
4 to grant the claim for credit service as police
5 officers.

6 CHAIRMAN MARANO: Is there a second? No
7 second.

8 MR. KAUFMAN: So is there another motion that
9 the trustee would like to --

10 CHAIRMAN MARANO: Okay. Is there another
11 motion that --

12 MR. DJOKIC: Stu, I have a question for you.
13 If they were in that role and understand that the
14 argument from Mr. Dutko was that they were doing
15 things outside of that role to assist police as far
16 as, you know, they said before they would respond
17 to calls, how do you address where if maybe some of
18 those roles were outside of the scope of their job?
19 Like we have CSOs and they're not allowed to do
20 certain things, but say they do it and then later
21 their argument is, Hey, I was doing this. Even
22 though I was a CSO, I was doing the role of a
23 police officer in many instances. How would that
24 affect --

25 MR. KAUFMAN: It probably did require them to

1 do certain job duties of a police officer, not all.
2 I don't know that they had arrest powers. I do
3 not -- and they certainly, under the job
4 description for correctional officer, they were not
5 required to be certified as a police officer. So I
6 think it's pretty clear that they were not
7 certified as a police officer. You know, I think
8 the definition of police officer has been clear.
9 It's unambiguous to me in 185.02 that you need to
10 be certified as a police officer in order to get
11 credited service for that time as a police officer.

12 MR. JEFF MARANO: Is there any -- we have to
13 have a second before we have discussion and debate?

14 MR. KAUFMAN: There's no motion on the floor,
15 so I don't have a problem with you having
16 discussion on the issue without there being a
17 motion.

18 MR. JEFF MARANO: Okay. You know what, I could
19 tell you that PERK doesn't take these changes
20 lightly because it's a lot of -- really a lot of
21 work for them. So, you know, when they did come
22 into the Collective Bargaining Unit in 1997, you
23 know, then apparently - maybe we dropped the ball
24 there and we should have incorporated them in the
25 pension plan. I don't know. But the -- you know,

1 dispatchers aren't in there, we work with
2 dispatchers every day. Forensic people aren't in
3 there. We work for forensic people every day.
4 CSOs aren't in there. There had to be a reason why
5 corrections or detention officers were put in there
6 is because they were more like, you know, they
7 waddled, they quacked, and they have web feet,
8 they're more like a duck than they are a chicken.
9 That's why - my opinion, that's why -- and being
10 part of it back then, I could tell you that's why
11 they were put into the Collective Bargaining Unit.
12 If we didn't incorporate them into the pension plan
13 at that time, then obviously somebody dropped the
14 ball. That could be us or the PBA. So I know that
15 PERK doesn't take it lightly. So people condition
16 PERK all the time for changes and they're denied
17 constantly.

18 We talk about state statutes, 99-1, that was in
19 state statute. 13 years later some attorney has a
20 different opinion. And this is what I think that
21 minimum benefits are now. They're not what they
22 were 13 years ago when Jeb Bush. Today they're
23 something different under Rick Scott.

24 Financial urgency, that's a state statute. 14
25 days you go -- the city declares financial urgency,

1 you go to the table 14 days, you can't resolve it,
2 then you go to the impasse procedure. City of
3 Miami didn't obey that. City of Hollywood didn't
4 obey that. That's in state statute.

5 You know, this whole concept of making people
6 whole, if we dropped the ball on these guys, I
7 don't know why we're not going to make them whole.
8 We have people that left. These seven people
9 didn't leave. They stayed and fought the fight for
10 seven years. Two of them are veterans. Had they
11 not served their country for four years, maybe they
12 would have gotten hired four years earlier and they
13 wouldn't be part of the deal. But we have people
14 that left, took pictures of where they were, they
15 gained time in another system and then they came
16 back years later, me too, and the seven people that
17 are part of this stayed for the fight.

18 You know, Greg Rossman was here and he just
19 basically articulated his position. There was no
20 need to file a lawsuit. They didn't -- everybody
21 just agreed that we're going to go ahead and make
22 them whole. I don't know why we're not making
23 these people whole if we did drop the ball.

24 But, you know, then operationally, when there
25 are cities that are small that they do -- police

1 officers do print their people, they photograph
2 their people, they take their property in smaller
3 agencies, you know. There were -- if you were
4 (inaudible) -- the last person you wanted to be
5 vacant was detention. That was where we got people
6 in and out of when we used to arrest people.

7 There were people that would call in the
8 calling system, call in their Probable Cause
9 Affidavit on the way to the station. When they got
10 into detention, the detention officer handed them
11 the PC, he signed it and went out on the road right
12 away. So operationally, they were much more
13 valuable than you were out directing traffic or in
14 say a zone.

15 But anyway, you know, I believe that we are
16 here for the members. If we're going to make
17 people whole they should be part of the deal. And
18 you know, if you want to hang your hat on state
19 statutes, it depends on who's calling the shots
20 every day. That's my stick.

21 MR. STRAUSS: So Jeff, you're saying from '97
22 they were part of the bargaining unit, but they
23 didn't get changed --

24 MR. JEFF MARANO: We have the order in front of
25 us, David. The PERK order in front of us.

1 Corrections officer and corrections supervisor.

2 MR. STRAUSS: And then Stu, you said that if
3 they were BSO corrections, they were at special
4 risk of getting three percent?

5 MR. KAUFMAN: They would -- the only guidance
6 that we got from the FDLE Counsel was that
7 correctional officer are -- had considered
8 hazardous duty for purposes of FRS, which really
9 does not have to anything to do with the definition
10 of police officer in Chapter 185.

11 MR. STRAUSS: Right. And then another thing, I
12 think that we talked to Paul about, Jeff, that is
13 this is not a finite group where the stuff you were
14 bargaining for was a finite group where we're just
15 not making this decision for this group. We're
16 making this decision for any person who worked that
17 job and is collecting a pension, and whether we're
18 going to get that money back from the GE Fund,
19 whether they agree or disagree with us. I don't
20 think you can look at that as a finite thing with
21 just the members that are participating in this
22 lawsuit. I thought both our lawyers mentioned that
23 at a previous hearing that this would also open the
24 door for any other person, somebody who's been
25 retired since 1991 or '95 or whenever detention

1 shut down, and has been out 30 years collecting a
2 GE pension, that we would go back and have to
3 recalculate that at their request.

4 And I don't know if that's being brought into
5 your decision or are you just looking at this
6 finite group, and then have to let the other people
7 outside this finite group hire a lawyer and sue the
8 Pension Board.

9 MR. KAUFMAN: Yeah. I mean, I think it
10 certainly can lead to future claims. And, you
11 know, we're talking about a claim wasn't made here
12 until, how many years later? Way after the fact.
13 If there was an issue with it, you know, argument
14 could be made that the claim should have been made
15 at the time that they were denied the police
16 officer time and given membership in the General
17 Employee Plan instead.

18 CHAIRMAN MARANO: Anything else, Dave?

19 MR. STRAUSS: No, no. That's my main concern
20 is not the members probably sitting in the back of
21 the room, it's the whole group or what you open up
22 by going against state statute at this point.

23 MR. BOYD: I'll make a motion to deny.

24 MR. SCHWEIGHARDT: I'll second that.

25 CHAIRMAN MARANO: Motion by Chris, second by

1 Justin. All in favor?

2 MR. KAUFMAN: Let's do it by roll call and see
3 if there's any further discussion.

4 CHAIRMAN MARANO: Chris Boyd?

5 MR. BOYD: Deny.

6 CHAIRMAN MARANO: Justin Schweighardt?

7 MR. SCHWEIGHARDT: Deny.

8 CHAIRMAN MARANO: Jeff Marano?

9 MR. JEFF MARANO: No.

10 CHAIRMAN MARANO: Mileta Djokic?

11 MR. DJOKIC: No.

12 CHAIRMAN MARANO: Oh, and Dave? I'm sorry.

13 MR. KAUFMAN: Let's do that again. They said
14 deny, so it's really yes. You're voting on the
15 motion.

16 CHAIRMAN MARANO: Okay. Yes. So --

17 MR. BOYD: Yes.

18 MR. SCHWEIGHARDT: Yes.

19 MR. JEFF MARANO: No.

20 MR. DJOKIC: Yes.

21 CHAIRMAN MARANO: Dave Strauss?

22 MR. STRAUSS: Yes.

23 MR. KAUFMAN: So that's six to one denying the
24 claim. We will draft a final order. We will get
25 it to the Chair for execution and then serve it

1 upon Counsel and they have the opportunity to
2 appeal your decision to the Circuit Court in
3 Broward.

4 Thank you, everyone for appearing and arguments
5 made on behalf of your client. You vigorously
6 pointed out your arguments and I thought you did a
7 great job and thank you for your professionalism.

8 (Whereupon, the meeting was concluded at
9 11:00 a.m.)

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C E R T I F I C A T E

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STATE OF FLORIDA)
COUNTY OF BROWARD)

I, TERRI L. WRIGHT, Notary Public in and for the State of Florida at Large, certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 24th day of August, 2021.

Terri L. Wright
Terri L. Wright



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