

# FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**March 12, 2009**

### CALL TO ORDER

The Board of Administration of the Federated City Employees' Retirement System met at 10:14 a.m., on Thursday, March 12, 2009, in regular session at the Department of Retirement Services, 1737 N. First St., Suite 600 - San José, California.

### ROLL CALL

#### Present:

**DAVID BUSSE**

**Matt Loesch**

**Jeffrey Perkins**

**Patrick Skillsky**

**Pete Constant**

**Ed Overton**

**CHAIR, Trustee**

**Trustee**

**Trustee**

**Trustee**

**Trustee**

**Trustee**

### NOT PRESENT:

**Ash Kalra**

**Trustee (Excused)**

### ALSO PRESENT:

**Russell U. Crosby**

**-Secretary/Director**

**Russ Richeda**

**-Attorney**

**Tamasha Johnson**

**-Staff**

**Debbi Warkentin**

**-Staff**

**Bill Thomas**

**-Retiree**

**Allen DeMers**

**-HR**

**Ron Kumar**

**-Staff**

**Amanda Ramos**

**-Staff**

**Veronica Niebla**

**-Staff**

**Carol Bermillo**

**-Staff**

**Leslie Thompson**

**-GRS**

**Linda Dittes**

**-AFSCWE**

**Sandra Stultz**

**-SJPD**

**Ceara O'Fallon**

**-Staff**

**Tom Reilly**

**-OE3**

**Aracely Rodriguez**

**-OER**

**Pam Hemminger**

**-SJPD**

**Donna Busse**

**-Staff**

**Mollie Dent**

**-City Attorney**

**Pete Patron**

**-Retiree**

**Karin Carmichael**

**-Staff**

**Elizabeth Pappy**

**-Attorney**

**Rajiv Das**

**-Board Medical Director**

**Bob Leininger**

**-SJREA**

**Rhonda Snyder**

**-Staff**

**Ali Amiry**

**-Staff**

**Trish Glassey**

**-CEO**

**David Rodriguez**

**-Retiree**

**Jesselle Holcomb**

**-Staff**

**Martin Tran**

**-Staff**

**Bill Pope**

**-OE3**

**Alex Gurza**

**-OER**

**Allison Suggs**

**-OER**

**Carmen Racy-Choy**

**-Staff**

### REGULAR SESSION

**Chair Busse** called the meeting to order at 10:14 a.m. He stated Item 17 will be heard first.

### ORDERS OF THE DAY

#### (Out of Order)

#### 17. Committee for Investments (Perkins/Loesch/Busse – alternate/Constant)

- 1) Approval to invest in two separate accounts \$50 million each with Seix Investment Advisors and MacKay Shields composed of Bank Loans and HighYield; and authorization for the Secretary to negotiate and execute agreements with these two managers.

(M.S.C. Loesch/Constant) to approve Consent Calendar. Motion carried 6-0-1. (Absent: Kalra)

## (Back on Agenda)

### RETIREMENTS

#### Disability Retirements for Hearing

**Pamela Hemminger**, Public Safety Dispatcher II, Police Department. Request for a Service-Connected Disability Retirement effective May 1, 2006, 12.30 years of service.

**Chair Busse** stated that this hearing was heard last month. Ms. Pappy presented the Board with a brief prepared for her client, and at that time the Board heard testimony and deferred this matter for review of the brief. Testimony was closed; however if there are any other questions those may be asked.

**Member Constant** stated he left last month's meeting early, but did receive a copy of the tape and listened to the hearing and read the minutes pertaining to this case.

**Member Loesch** asked to clarify that the issue was an anatomical one which was an impingement in the arm. Also, he asked if modifications could have been made for her to continue working.

*Mr. Demers* stated the work restrictions are different for workers compensation and the Board; however Dr. Das's restrictions could have been accommodated.

There was further discussion on conflicting opinions and why Mrs. Hemminger did not return to work.

*Mrs. Hemminger* stated by the time she was able to return to work, she had been released from her position. (M.S.C. Constant/Skillsky) to approve. Motion carried 5-1-1. (Absent: Kalra; No: Overton).

### CONSENT CALENDAR (Items 2 thru 8)

(M.S.C. Loesch/Constant) to approve Consent Calendar. Items 7c, 7d, and 7e were pulled for discussion. Motion carried 6-0-1. (Absent: Kalra)

Service retirements approved:

Angelica T. Alfaro, March 21, 2009,  
Ernestine M. Allen, March 21, 2009  
Terry Aragon, March 21, 2009  
Charles E. Berry, March 21, 2009  
Deborah L. Bogart, March 21, 2009  
Ola L. Brinkley, March 21, 2009  
Marta A. Cruz, March 7, 2009  
Michael J. Dunn, March 21, 2009  
Margaret K. Facchino, March 21, 2009  
Ardavan Farbakhsh, March 21, 2009  
Anna B. Flemate, March 21, 2009  
Sandra A. Garcia, March 21, 2009  
Alice L. Hayes, March 21, 2009  
Bradley K. Imamura, March 28, 2009 (w/Reciprocity pending).  
Paul Izadyar, March 21, 2009  
Carolyn F. Johnson, March 21, 2009  
Neal P. Van Keuren, March 21, 2009  
Julita K. Leung, March 28, 2009  
Manuel V. Lim, March 21, 2009  
Terry G. Lou, March 19, 2009 (w/Reciprocity).  
Patricia A. Lowe, March 7, 2009  
Michael J. Mendizábal, March 7, 2009

Arnold G. Meydbray, March 21, 2009  
Suzanne K. Mihara, March 21, 2009.  
William Nasiatka, March 31, 2009  
Laura D. Nodal, March 28, 2009  
Sandra J. Nunes, March 21, 2009  
Dennis G. Osorio, March 21, 2009  
Rolando Padilla, March 21, 2009  
Kirk W. Pennington, March 21, 2009  
Lilian S. Ramirez, March 1, 2009  
Shirley J. Ramos, March 7, 2009  
Esther Mae Roberts, February 21, 2009  
Alan R. Schroeder, March 21, 2009  
David M. Stowell, March 22, 2009  
John L. Terrasas, March 21, 2009  
Neil J. Walsh, March 21, 2009  
Karen H. Wing, March 28, 2009  
Steven T. Wing, March 28, 2009

Deferred Vested retirements approved:

Stephen M. Haase, March 30, 2009 (w/Reciprocity)  
Eric W. Peterson, February 13, 2009  
Mayuko Tzanavaras, March 15, 2009

## **COMMUNICATION / INFORMATION**

### **7e. Brown Act Update by Mollie Dent**

*Ms. Dent* stated this update addressed a situation in Fremont where staff addressed individual Board members on issues that were coming forward to the Board. The situation in Fremont pertained to the City Manager approaching the Board outside of the meeting context regarding future business items. *Ms. Dent* advised that no one should try to circumvent the Brown Act requirements, so use diligence. *Ms. Dent* will provide a written memo to the Board.

### **7b. Legal and Legislative Updates provided by Russ Richeda**

*Mr. Richeda* stated this initiative is to modify the public employees' vested rights doctrine. It contains some ambiguous language and the Attorney General's view is very broad on this matter. For this initiative to qualify for the upcoming ballot it needs to obtain at least 694,354 signatures and file it with each county by June 22, 2009. The sponsor of the initiative does not appear to have sufficient funding to solicit the necessary signatures. He will keep the Board updated.

### **7c. IRS's Governmental Plans Initiative provided by Russ Richeda**

*Mr. Richeda* stated the IRS has continued its focus upon public plans. They released two tiers of questions, as they state they would like to serve us better. The first set of questions was sent to 25 systems. The second set of questions will be sent to 250 plans. Eventually, IRS will issue a report on their findings. For applications for tax determination letters for filing during cycle E, the filing is due by February 1, 2010. He is working with *Ms. Dent* in preparing a draft for the Board to review regarding the Plan's status for possible filing in cycle E.

*Ms. Dent* stated some public entities did file for cycle C, so some guidance may come out of that.

*These items are note and file.*

## **DEATH NOTIFICATIONS** (Item 9 - Moment of Silence)

The Chair stated there would be a moment of silence for the death notifications.

## **OLD BUSINESS (Item 10-13)**

### **10. Travel Audit compliance update.**

*Mrs. Niebla* stated preliminary feedback has been provided but it is not formalized yet. The Policy Committee will be meeting to review the City Travel Policy and make recommendations to the Board.

### **11. Update on the soundness of the Federated Retirement's investment portfolio.**

*Mr. Kumar* stated a memo has been distributed this morning. The portfolio held to by the fixed asset allocation, and did much better than other asset classes.

**The Secretary** stated this memo has been provided to the Board for past year, and most of the information is supplied with the quarterly performance reports, so is the value still applicable in providing the memo.

**Member Loesch** stated he recognized this memo was supplied at the peak of the economic downturn, which was a dramatic market condition at the time.

**Chair Busse** stated the quarterly performance report is what the Board can review for investment updates.

*Item is note and file.*

### **12. Discussion and action on the Supplemental Retiree Benefit Reserve (SRBR) distribution for fiscal year ending June 30, 2008; and options related to prior years distributions.**

*Ms. Dent* stated the Board gave direction to bring back options that deal with the overpayments for retirees, including if the Board has an obligation to recover the distributions or not.

She also stated that legal counsel has reviewed if there is a conflict of interest regarding Member Overton; today's discussion does not have anything to do with contracts, so he is not disqualified and may participate in the discussion related to this item.

*Ms. Dent* stated she has come up with four (4) options: 1.) to do nothing; however the Board does have an obligation to make a reasonable effort to recover overpaid funds; 2.) to off-set liability by withholding from future distributions; 3.) to use a bill/collection option – send a bill and possibly pursue collection if bills are unpaid; 4.) have City Council adjust future distribution.

*Ms. Dent* advised at there is not sufficient evidence to decide to do nothing. The Board has a fiduciary duty to collect where reasonable to do so. The question is whether the result would be worth the effort and cost. The lack of information on likelihood of collection and cost prevents the Board from making a decision to do nothing at this time.

*Ms. Dent* advised against option two, an off-set the current year's distribution. The current year's projection is based on revised numbers, which is not enough to recover the amounts that were overpaid.

Option three, has statute of limitations and, cost and collectability issues. The amounts range per retiree, and then there are costs involved to calculate the amounts. Staff would need to provide the Board with more information on the cost and collectability issues in order for the Board to make an informed decision.

*Ms. Dent* stated it is reasonable to review the collectable amounts over the last three (3) years, and recommends exploring the option of doing nothing versus bill/collect.

**The Secretary** stated the City has a collection agency they use already. He understands that there are concerns regarding costs, time, and recovery rates, but the agency may be a valuable source of information.

*Ms. Dent* stated that staff can determine a range, which should not be difficult to determine the low end and

high end of overpayment amounts.

*Mr. Richeda* stated a cost benefit analysis will determine the likelihood of recovery. Once it has been evaluated, the Board will be in a better position to make a decision.

**Member Constant exited**

(M.S.C. Perkins/Loesch) to recommend examination of recovery cost benefit, including reviewing the past 10 years of distributions. Motion carried 5-0-2. (Absent: Kalra/Constant).

**13. Adoption of Revised Resolution No. 6364 revising excess earnings as of 30 June 2007 for the purpose of transfer to the Supplemental Retiree Benefit Reserve.**

*This item was deferred to the next meeting.*

**NEW BUSINESS (Items 14-16)**

**14. Request to terminate retirement benefit of Mike Iida effective March 16, 2009.**

*Ms. Dent* stated this is a request to rescind Mr. Iida's retirement, so that he can return to work.

*Mr. Hopper* stated disciplinary action resulted in termination of Mr. Iida. His retirement was overturned and the decision to return to work means he must be unretired.

(M.S.C. Overton/Perkins) to approve. Motion carried 5-0-2.

**15. Approval of Department of Retirement Service's Budget Proposal for the Fiscal Year 2009-2010.**

*Mrs. Niebla* presented the proposed budget for Fiscal Year 2009-10. She stated it had been developed to manage the \$2 billion in pension assets in an increasingly complex financial market. The budget compared the budget from the previous fiscal year, current year adopted and forecast, and the proposed next year budget. The total change in the budget was a decrease of -11.3%. Items proposed include staff reorganization; including reclassification of four existing positions and addition of four (4) investment professional positions; acquiring investment related databases; additional space to accommodate additional investments staff; creation of interview rooms for confidential retirement counseling; additional actuarial services; increased real estate appraisal budget; and, additional budget for Pension Gold annual maintenance support due to expected contract amendment. Also, there will be a continuation of pending fiscal year 2008-09 budget proposal items, including, the Business Continuance Plan (which is the Fire suppressant system for the server room), and the updating of the Document Imaging Servers and addition of a second station. Other factors that increased the current fiscal year budget were the Board approval of items after the budget for fiscal year 2008-09 was adopted including the Board's Fiduciary Insurance, and Investment legal counsel. She also noted that the 28% increase in the budget is not just based on staff additions, but also the escalations of the current market.

**Member Perkins** stated in this market many cuts are occurring, so what's driving these increases. Should the Plan be adding a larger group of investment expertise in a bad economy? There are times when it is nice to have, but do we need to have these things is the bigger consideration.

**The Secretary** stated in reviewing other public plans, this type of organization is staffed with more professionals, which is a common practice when managing around \$2 billion in assets. Positions include public securities, non-public markets, real assets, risk management, and actuarial support. There are a series of program managers for various asset classes. The immediate cost impacts focus on manager performance, and reduction of management fees.

Mrs. Racy-Choy stated by implementing fee reductions and hedging, the Plan will see immediate cost savings. This is the time to make these changes. It supports additional diversification, delaying only contradicts what's to be implemented.

Member Overton stated he would like to see comprehensive details of the budget, including implementation plan, and job details.

(M.S.C. Loesch/Perkins) to approve with further report detailing timelines, space, positions. Motion carried 5-0-2.

16. **Request for Board approval of the following trustees'/staff attendance at the educational conferences listed:**

<u>Trustee</u>	<u>Conference Name/Location/Dates</u>
Carmen Racy-Choy	Review of San Bernardino's Retirement Investments – San Bernardino 3/25/09
Dr. Rajiv Das	American Occupational Health Conference -San Diego-4/23 thru 29/2009
Veronica Niebla	GFOA GASB Pronouncements, March 10, 2009, Reno NV CalAPRS Accountants Roundtable April 10, 2009 San Jose, CA

(M.S.C. Loesch/Perkins) to approve. Motion carried 5-0-2.

**STANDING COMMITTEES / REPORTS / RECOMMENDATIONS**

- 18. **Committee of the Whole (Full Board) – last meeting 26 February 2009**
- 19. **Policy Committee (Busse/Overton/Constant – alt/Loesch) - TBD**

**EDUCATION AND TRAINING**

**PUBLIC/RETIREE COMMENTS**

**FUTURE AGENDA ITEMS**

The following was requested: 1. Cash Status/Liquidity Statement  
2. SRBR Termination

**ADJOURNMENT**

There being no further business, at 12:03 p.m., **Chair Busse** adjourned the meeting.

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**DAVE BUSSE, CHAIR**  
**BOARD OF ADMINISTRATION**

**ATTEST:**

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**RUSSELL U. CROSBY, DIRECTOR**  
**BOARD OF ADMINISTRATION**