

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**April 2, 2009**

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:40 a.m., on Thursday, April 2, 2009, in regular session at Department of Retirement Services, 1737 N. First St, Suite 600 - San Jose, CA.

### ROLL CALL

#### Present:

DAVID BACIGALUPI

BILL BRILL

SCOTT JOHNSON

ROSE HERRERA

SAM LICCARDO

Acting CHAIR

Trustee

Trustee

Trustee

Trustee (Arrived 8:45 a.m.)

### ALSO PRESENT:

Russell Crosby

-SECRETARY

Russell Richeda

-Saltzman & Johnson

Tamasha Johnson

-Staff

Carol Bermillo

-Staff

Amanda Ramos

-Staff

Bruce DeMers

-P&F Retirees

Ali Amiry

-Staff

Jim Jeffers

-Attorney

Veronica Niebla

-Staff

Aracely Rodriguez

-OER

Jeff Rickets

-POA

Mike Rosingana

-P&F Retirees

John Tennant

-Attorney

Bobby Lopez

-SJPOA

Antonio Guerra

-Mayor's Office

Mollie Dent

-City Attorney Office

Debbi Warkentin

-Staff

Donna Busse

-Staff

Jesselle Holcomb

-Staff

Jennifer Malutta

-City Council Rep.

Bill Thomas

-Fed. Retiree

Eric Ramones

-SJFD

Ron Kumar

-Staff

Andy Yeung

-Segal Co.

Ceara O'Fallon

-Staff

Franco Vado

-POA

Karin Carmichael

-Staff

George Beattle

-SJPOA

Alex Gurza

-OER

## REGULAR SESSION

### ORDERS OF THE DAY

Acting Chair Bacigalupi called the meeting to order at 8:36 a.m in honor of the fallen police officers of Oakland, and requested a moment of silence.

New Board Members Keith Keesling and Conrad Taylor were introduced and welcomed.

The Secretary stated at IMN's Public Pension Fund Awards banquet in March, the Plan won Mid-Plan Sponsor of the Year Award. The editors noted the hiring of NEPC and changes in the Plan's diversification of assets in the portfolio.

### RETIREMENTS

#### 1. Service

- a. **Steven C. Inami**, Police Officer, Police Department. Request for Service Retirement effective April 4, 2009; 20.03 years of service. **(SCD Pending)**

**Acting Chair Bacigalupi** stated the effective date should be corrected to reflect the date of April 4, 2009. (M.S.C. Herrera/Brill) to approve. Motion carried 6-0-1. (Absent: Liccardo)

**2. Disabilities**

- a. **Donna A. Backman**, Police Officer, Police Department. Request for **Nonservice-Connected Disability** effective March 14, 2009; 19.2 years of service. **(Reciprocity)**

**Police Officer Backman** was not present.

For the record, medical reports were not included in the packet since she has a service-connected disability retirement from a reciprocal agency.

**Acting Chair Bacigalupi** stated she retired from Palo Alto with a service-connected disability, and qualifies for a nonservice disability with our system on the date requested for reciprocity per SJMC Section 3.36.3020(E) regarding reciprocity.

(M.S.C. Herrera/Brill) to approve. Motion carried 6-0-1.

**3. Change in Status - None**

**4. Deferred Vested - None**

**5. DEATH NOTIFICATIONS**

Notification of the death of Donald R. Dorr, Retired Fire Engineer; retired 5/13/80, died 3/11/09. No survivorship benefits to be paid.

*Item is note and file.*

**6. Discussion and request for Board direction on workload at City Attorney's Office.**

*Ms. Dent* stated the City's budget problems are resulting in substantial staff cuts, so the ability of the City Attorney's Office to continue servicing and maintaining the current levels of service to the Plan may be compromised. There is a provision in the Municipal Code for administrative fees to be paid for by the Plan. There is a specific provision in the Fire MOA for the PF Board not to pay for City Attorney Office staff salaries. Legal services will need to be contracted out. The estimated amount of time spent on a regular basis for this Plan has been calculated, and a budget estimate has been provided based on the City Attorney's billable amounts for the level of service on the estimated amount of work provided. Outside legal service would most likely provide support at a much higher cost. The City Attorney's Office functions to provide legal services to the Board under the City Charter. The City Attorney's Office is acknowledging that there may be a need for additional funding and that funding would fall under administrative costs, so long as monies are not paid directly to the Office of the City Attorney.

**Member Liccardo arrived**

**Member Keesling** stated since the City Attorney's Office is responsible for servicing the Board by City Charter, where is the correlation on the issue. Is there more work and not enough staff? He would like to see an explanation of the scope of service and expectations.

*Ms. Dent* stated the City Charter was written very broad, and comprehensive service has been provided to the Board. The City Attorney's Office is to provide services, but the Plan is to pay based on agreement; it is

components of both.

**The Secretary** stated money has been budgeted for service levels, which can be seen under the budget item on the agenda.

*This item is note and file.*

**(Out of Order)**

**OLD BUSINESS/CONTINUED-DEFERRED ITEMS**

11. Request for discussion and direction to staff on Segal's Report on Actuarial Valuation of Retirement Health Benefits as of 30 June 2007 and authorization to forward on to City Administration (Cont'd from February agenda).

*Mrs. Racy-Choy* stated the valuation reflects the agreement reached with the POA for cost sharing at a higher level.

*Mr. Yeung* stated this valuation is a report for accounting disclosure requirements; the Board has already approved contribution rates for 2008-09 and 2009-10. The highlights of the valuation were discussed.

- The annual required contribution (ARC) is 13.4% of projected pay, which is reduced from 27.4% of payroll determined in the June 30, 2006 valuation. The main reason for the reduction is the fact that the Municipal Code cost sharing has been applied to the full actuarial cost.
- In preparing the cost and liabilities for this report, staff directed Segal to follow the Municipal Code provisions that specify how the funding contribution rates are shared between the City and the members so as to anticipate that the members will now make contributions that amount to those same proportionate shares but applied to the accrual accounting expense determined in accordance with GASB 43/45. For the employees, we have anticipated contributions equal to 50% of the expense for providing the medical benefit (including the implicit subsidy) and 25% of the expense for providing dental benefit. The allocation of the expense for the implicit subsidy has changed from 100% paid by the employer as assumed in the June 30, 2006 valuation to a 50/50 allocation between the employer and the employees as assumed in this valuation. The expected employee contributions using the above method is 8.5% of payroll higher than the employee's cash contributions set by the current 10-year cash flow contribution funding policy.
- The assumed discount rate used in this report is 6.0% and is changed from the 5.3% rate used in the last valuation as of June 30, 2006.
- As directed by the Department of Retirement Services, the 7.5% rate is used to represent the return that the Police & Fire System would earn on contributions deposited with and invested by the plan while the 4.5% is used to represent the return that the City would earn on its investment.
- The results of this valuation have been updated to reflect changes in the health care trend rates and other demographic assumptions.

*Mrs. Racy-Choy* stated the report assumes the Plan is moving forward to full prefunding for both Police and Fire, and fundamentally does not reflect that Fire is not in agreement. Segal will provide a side letter to that point.

*Mr. Yeung* stated Segal prepared a memorandum projecting contribution rates under different scenarios for the pension plan, and a 20-year projection for the medical plan. Those letters were distributed prior to the meeting.

*Mr. Gurza* stated the issue of rates is significant, he would urge the Board to allow Segal to explain the context of what could result as presented in the memos distributed.

*Ms. Dent* stated the Sunshine Rules allows for late submission of items to be verbalized for informational purposes to the extent that it is relevant to the agenda item.

(M.S.C. Herrera/Liccardo) to approve discussion of the memorandum's distributed by Segal Co, and to bring the item back to the next meeting for action. Motion carried 7-0-0.

*Mr. Yeung* stated in the Segal letter dated March 25, 2009, they have projected the employer and employee's contribution rates under different future market rates of return as well as different investment return assumptions for the Retirement Plan. In order for the Plan to stabilize volatility in the rates with market fluctuations, the Board uses an asset valuation method that gradually adjusts to market value. Under this valuation method, any market returns that are either below or above the assumed rate of investment return (currently 8% per year) are recognized over a five year smoothing period. Additionally, to avoid the smoothed Actuarial Value of Assets (AVA) from getting too far away from the Market Value of Assets (MVA), there is a market value corridor that limits the AVA to be no greater than 120% and no less than 80% of the MVA. Segal has analyzed the impact of hypothetical future market losses, and past losses provide a framework for the potential impact of the current structure. Once losses are over 20% of market value, then it must be recognized dollar for dollar. You would no longer have the ability to smooth the losses, and the contribution rates would double within a year.

*Mrs. Racy-Choy* stated the 5-year smoothing is used to minimize the volatility of the contribution rates. What is in place is a trigger/corridor, which once the gains or losses hit 20%, no longer can smoothing be used. Cost sharing looks at the cost of the Plan and divides that cost between the employer and employees through an agreed upon arrangement. This trigger is about the investment gains or losses.

*Mr. Yeung* stated most actuaries have not ever experienced a 30% loss. The Actuarial Standards Board has an Actuarial Standard of Practice that allows a reasonable relationship between actuarial values of assets to market values; if we were to go to a long smoothing period of 10, 15, or 30 years there are no guidelines provided. There is no formal guidance in regards to the corridor either. Segal will be obtaining input from other actuaries.

*Mrs. Racy-Choy* stated she has begun discussions regarding advantages/disadvantages of the 5-year smoothing with the current corridor, and how it would look with a wider corridor.

*Mr. Yeung* stated the letter dated March 30, 2009, provides a 20-year projection of contributions for the Health Plan. The projections were prepared with the assumption of full prefunding of all the Fire and Police member liabilities for the Health Plan over a phase-in period of 5 years effective with plan year 2009/2010. The spread over 5 years is a little different due to limitations, which extend the period to closer to 7 years as a result of the agreements between the City and POA to cap how much the contribution rates can become. Additional negotiations would need to be done to remove caps.

*Mr. Tennant* stated the constraints are clear and caps can not be eliminated absent bargaining; now with a new target they will initiate a new discussion.

This item was deferred to the next meeting.

## **(Back on Agenda)**

### **NEW BUSINESS**

7. Discussion on memo from Alex Gurza, Director of Employee Relations, concerning MOA between the City and SJPOA re: pre-funding of the full annual actuarial costs for retiree healthcare as prescribed by GASB 43/45.

*Mr. Gurza* stated the benefits remain unchanged and cost sharing as outline in the Municipal Code will not be altered. He explained the move will shift the police members from what the Board calls the Policy method, which is a rolling 10 years to a full prefunding or GASB method. OER has not reached an agreement with the

Fire group. He also addressed concerns regarding the increased contributions to the system for retiree healthcare, and if they are at the IRS limit or when will that limit be reached. Also, he wanted to know if the contributions have to be in a separate health trust account, or could they continue to pay into the current system until a separate trust is set up. The bargaining agreement the POA reached referenced a phase-in model presented to the Joint Solutions to Retiree Healthcare Committee last year, and uses a closed amortization schedule. While the chart may be dated, the intent in the agreement is clear about full prefunding with limits on each year's contribution amount. He would like to request a chart with the phase-in for the police negotiated contract.

*Ms. Dent* stated she would like for the actuary to perform a 401(h) analysis.

(M.S.C. Herrera/Johnson) to direct staff to request updated charts from the Segal Co. Motion carried 7-0-0.

## **8. Discussion and request for Board direction on disability application process.**

*Ms. Busse* stated this item was requested to be reviewed at last month's Board meeting. Preliminary research has been done through communicating with other Plans. She requested information regarding the process used, and who is responsible. Essentially, the Medical Directors' role is one which reviews the medical information provided by the applicant, he then assimilates the reports for our packet, and he generates restrictions based on the medical information. Plans use a variety of disability procedures, but mainly have an informal or formal hearing. Some utilizing a formal procedure will have witnesses sworn in and subpoenaed; it is similar to a trial.

*Mr. Richeda* stated that the City of Fresno Boards give the applicant a choice between a formal or informal hearing. Alameda County only has formal hearings. It is a Board policy decision.

**The Secretary** stated ultimately the trustees hear the information and make the decision. Options we could request of the Board's Medical Director are to better summarize contents of reports, provide a checklist of material, distill down the reports, and summarize the factual elements.

**Acting Chair Bacigalupi** stated the Board's Medical Director role needs to be defined, and expectations need to be established and communicated. In the future, this process should be reviewed to see how to streamline it.

(M.S.C. Liccardo/Brill) to direct staff to provide factual elements for granting a disability and request a more detailed recommendation for each element presented from the Medical Director. Motion carried 7-0-0.

## **OLD BUSINESS/CONTINUED-DEFERRED ITEMS**

### **9. Election of Board Chair and Vice Chair for 2009. (Cont'd from February/March agenda)**

(M.S.C. Brill/Johnson) to elect Mr. Bacigalupi as Chair. Motion carried 7-0-0.

(M.S.C. Keesling/Brill) to elect Mr. Taylor as Vice-Chair. Motion carried 7-0-0.

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

**The Secretary** stated the main discussion last month centered on questions about the reorganization of staff. Staff has provided a proposed organization chart detailing changes, also other Plan structures have been provided for comparison. A fairly robust staff should be developed when a Plan gets to around \$3-4 billion in assets. There is a line item for attorney allocation as discussed early in the meeting. If any additional questions come up they can still be addressed at a future time.

(M.S.C. Herrera/Brill) to approve with line item change for attorney allocation, and review if necessary. Motion carried 7-0-0.

**12. Travel Audit compliance update.**

*Mrs. Niebla* stated the City has finalized the City's Travel Policy, which became effective on 3/16/2009. The Audit Committee will meet to review the policy.

**Member Liccardo exited**

**STANDING COMMITTEES / REPORTS / RECOMMENDATIONS**

**Investments Committee (Johnson, Bacigalupi, Liccardo)**

**13. Summary of meeting held 5 March 2009**

- a. Approval of minutes of the COW held 19 November 2008.

*This item is note and file.*

**Real Estate Committee (Johnson, Bacigalupi, Herrera)**

**14. Summary of meeting held 5 March 2009**

- a. Approval of revised Real Estate Disposition Guidelines
- b. MIG:
  1. Approval of 2009 Business Plans & Budgets
  2. Approval of 2009 Tactical Plan
- c. Kennedy Associates:
  1. Approval of 2009 Business Plans & Budgets
  2. Approval of 2009 Tactical Plan.
- d. Kennedy Associates Real Estate Counsel & MIG Realty Advisors – Termination of Separate Account Mandates

**The Secretary** stated for Item 14d, a report was issued late last year recommending termination of the Kennedy contract, and would like to resurrect the matter to the Real Estate Committee with an updated report.

(M.S.C. Herrera/Brill) to approve all items. Motion carried 6-0-1. (Absent: Liccardo).

**15. Summary of the following Boards of Directors meeting held 5 March 2009**

- a. SJ Progress Point, LLC
- b. 3169 Dodd Road Corporation
- c. 3201 C Street, LLC
- d. 3301 C. Street, LLC
- e. 1737 North First Street

(M.S.C. Herrera/Brill) to approve all items. Motion carried 6-0-1.

**Audit Committee (Bacigalupi, Brill, Johnson)**

**16. Summary of meeting held 27 February 2009**

*This item is note and file.*

**CONSENT CALENDAR (Items 17-24)**

(M.S.C. Herrera/Brill) to approve with the exceptions of Items 23, and 24b. Motion carried 6-0-1.

**23. Investments**

Adoption of Resolution No. 3558 for the period ending January 1 through 31, 2009

**Member Keesling** stated he received this document via email and would prefer to receive the hard copy. He also requested if the item could be formatted differently to reflect sells and purchases for each investor.

**The Secretary** stated the Board's role is to be informed, but not to get into the details of individual investments. This is an item that is required per the Municipal Code, but is irrelevant.

**Chair Bacigalupi** directed legal to review the Municipal Code and determine if the resolution is legally required, and bring a memo back to the Board.

(M.S.C. Herrera/Brill) to approve. Motion carried 6-0-1.

**24b. Communication/Information**

Informational memo re: Heroes Earning Assistance and Relief Tax of 2008

**Chair Bacigalupi** asked if anyone has been affected by this yet. He requested the item to be placed on the pending actions list.

*Mr. Richeda* stated this item requires a Municipal Code amendment. No one has been affected.

(M.S.C. Herrera/Brill) to approve. Motion carried 6-0-1.

**PROPOSED AGENDA ITEMS  
PUBLIC COMMENTS  
EDUCATION AND TRAINING  
ADJOURNMENT**

There being no further business, **Acting Chair Bacigalupi** adjourned the meeting at 12:25 p.m.

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**DAVID BACIGALUPI, CHAIR  
BOARD OF ADMINISTRATION**

**ATTEST:**

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