

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

October 1, 2009

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:37 a.m., on Thursday, September 3, 2009, in regular session at Department of Retirement Services, 1737 N. First St, Suite 600 - San Jose, CA.

### ROLL CALL

#### Present:

DAVID BACIGALUPI  
CONRAD TAYLOR  
BILL BRILL  
KEITH KEESLING  
ROSE HERRERA  
SAM LICCARDO

CHAIR  
VICE CHAIR (Arrived 8:50 a.m.)  
Trustee  
Trustee  
Trustee  
Trustee

### NOT PRESENT:

Scott Johnson

Trustee (Excused)

### ALSO PRESENT:

Russell Crosby	-SECRETARY	Donna Busse	-Staff
Carmen Racy-Choy	-Staff	Mollie Dent	-City Attorney Office
Russell Richeda	-Saltzman & Johnson	Linda Charfauros	-SJFD
Debbi Warkentin	-Staff	Thomas J. Boyle	-Attorney
Tamasha Johnson	-Staff	Toni Johnson	-Staff
Jesselle Holcomb	-Staff	Craig Johnson	-SJPD
Rhonda Snyder	-Staff	Maria Loera	-Staff
Domingo Rico	-SJPD	Jacob Feguson	-SJPD
Sandra Hollaway	-SJPD	Carol Bermillo	-Staff
Jim Jeffers	-Attorney	Bruce DeMers	-P&F Retiree
Veronica Niebla	-Staff	Aracely Rodriguez	-OER
Donald Rocha	-Herrera's Office	Jim Upland	-SJPOA
Lt. Mark Bustillos	-SJPD	Sam Swift	-Attorney
Amanda Ramos	-Staff		

## REGULAR SESSION

### ORDERS OF THE DAY

Chair Bacigalupi called the meeting to order at 8:36 a.m. At the applicant's request for Item 1b the effective date will be October 9, 2009. He stated Item 2 – will be heard at the end of the agenda in Closed Session. And Item 15 is time certain at 9 a.m.

### RETIREMENTS

#### 1. Service

- a. Manuel Martinez, Jr., Police Captain, Police Department Request for Service Retirement effective October 17, 2009; 27.03 years of service.

(M.S.C. Liccardo/Herrera) to approve. Motion carried 5-0-2. (Absent: Taylor/Johnson).

- b. **Pete Ramirez**, Sergeant, Police Department. Request for Service Retirement effective October 17, 2009; 26.26 years of service.

(M.S.C. Keesling/Herrera) to approve. Motion carried 5-0-2.

- c. **Thomas A. Reischl**, Fire Captain, Fire Department. Request for Service Retirement effective October 3, 2009; 28.45 years of service. **(SCD Pending)**

(M.S.C. Herrera/Brill) to approve. Motion carried 5-0-2.

**(Out of Order)**

**3. Change in Status**

- a. **Thomas Conry**, Retired Fire Captain. Request for change to Service-Connected Disability Retirement effective December 27, 2008; 36.02 years of service.

For the record retired Fire Captain Conry was not present and was represented by *Mr. Swift*. The following reports have been received:

MEDICAL REPORTS - DR'S NAME	DATED
1. PATRICK MCCREESH, M.D.	5/13/09 (X4), 5/19/08, 3/5/07, 8/8/05
2. DOUGLAS BLATZ, M.D.	5/7/09 (X2), 3/5/09 (X2), 11/18/08, 8/26/08, 5/27/08, 5/23/08, 4/15/08, 4/20/99, 1/13/99, 11/17/98
3. EUGENE DELLAMAGGIORE, D.C.	5/6/09, 3/3/09, 1/23/09, 1/13/09, 7/9/07
4. WILLAIM MARTIN, M.D.	1/14/09
5. GLEN NAKASAWA, M.D.	12/23/08
6. RODNEY WONG, M.D.	12/23/08
7. LAWRENCE CHAN, M.D.	9/2/08, 1/14/08
8. DAVID KRAMER, M.D.	3/5/07, 8/8/05
9. RICHARD BAXTER, M.D.	12/14/98
10. ANTON MUSLADIN, M.D.	6/14/96
11. MARK WAINER, M.D.	3/3/94
12. MICHAEL DILLINGHAM, M.D.	3/13/92, 2/18/92, 2/12/92, 1/7/92, 9/24/91, 7/12/91, 6/24/91, 6/20/91, 1/19/91, 1/2/91
13. JAMES FITZSIMMONS, JR. M.D.	11/14/91
14. RUSSELL FRTIZ, M.D.	9/12/91
15. CHARLES BORGIA, M.D.	12/13/90
16. STUART MASS, M.D.	12/13/90
17. HOWARD DAVIS, M.D.	12/6/1990

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	9/14/09

(M.S.C. Keesling/Herrera) to approve. Motion carried 5-0-2.

- b. **Virgilio Hernandez**, Retired Firefighter. Request for change to Service-Connected Disability Retirement effective August 24, 2007; 27.35 years of service.

For the record retired Firefighter Hernandez was not present and was represented by *Mr. Swift*. The following reports have been received:

MEDICAL REPORTS - DR'S NAME	DATED
DAVID CAMARATA, M.D.	4/29/09 (TWO REPORTS); 2/1/08 : 1/28/08 : 10/29/07 : 9/10/07 : 4/17/07 : 2/12/07

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PATRICK MCCREESH, M.D.	5/5/08 : 5/4/06 : 10/21/04
RONALD FUJIMOTO, D.O.	10/26/07 : 1/19/07
GARY FANTON, M.D.	11/30/06 : 9/13/06 : 6/26/06 : 9/1/05 : 4/6/05 : 12/12/00 : 3/14/93 : 10/22/93 : 4/5/93
MICHAEL ROSELLINI, M.D.	7/21/06
BRAD PIATT, M.D.	12/15/04
MARK EASTLAND, D.C.	8/5/02 : 5/6/02
JEFFREY SAAL, M.D.	7/18/02
MURRAY SOLOMON, M.D.	4/8/00
ARTHUR MESSINGER, M.D.	12/7/94 : 10/7/94
STANLEY HARMON, M.D.	9/19/94 : 9/20/94
LEE FISHER, M.D.	9/19/94
RUSSELL FRITZ, M.D.	3/18/93 : 3/16/93
ELIZABETH YURTH, M.D.	3/16/93

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	9/15/09

(M.S.C. Liccardo/Herrera) to approve. Motion carried 5-0-2.

- c. **Craig Johnson**, Retired Police Officer. Request for change to Service-Connected Disability Retirement effective July 11, 2009; 30.77 years of service.

For the record retired Police Officer Johnson was present and represented himself. The following reports have been received:

**Member Taylor arrived**

MEDICAL REPORTS - DR'S NAME	DATED
DONALD PANG, M.D.	6/5/09 (14 REPORTS), 4/16/09, 2/5/09, 8/28/08, 4/3/08, 11/16/06, 3/9/06, 12/13/05, 11/17/05
BRUCE HUFFER, M.D.	3/19/09, 3/27/09, 3/11/08, 12/18/07, 12/10/07, 11/26/07, 11/16/07
RORY SATTERFIELD, M.D.	11/20/07
RYAN KEEFE, P.A.	11/15/07
LISA BALLHR, D.O.	3/28/06
CHRISTOPHER LOH, M.D.	11/16/04
SHALIN PATEL, M.D.	11/16/04

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	9/15/09

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

- d. **Domingo Rico**, Retired Police Officer. Request for change to Service-Connected Disability Retirement effective January 12, 2008; 27.58 years of service.

For the record retired Police Officer Rico was present and was represented by Mr. Boyle. The following reports have been received:

MEDICAL REPORTS - DR'S NAME	DATED
1. HESSAM NORALAH, M.D.	04/28/09 (EIGHT REPORTS), 10/23/07
2. ROBERT L. WEINMANN, M.D.	04/09/08

3. MARK CULTON, M.D.	03/11/08, 06/11/03
4. ALFREDO F. FERNANDEZ, M.D.	02/27/08
5. LAWRENCE CHAN, M.D.	06/24/04
6. JAMES A. SAADI, M.D.	09/09/03
7. ANTHONY S. ALVARADO, M.D.	05/27/03, 07/10/02, 10/21/01, 04/07/99, 07/03/97
8. MURRAY A. SOLOMON, M.D.	06/22/00, 02/12/99, 02/02/99 (TWO REPORTS)
9. DAVID A. GOLDWAG, D.O.	06/26/97

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	09/15/09

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

**4. Deferred Vested - None**

**DEATH NOTIFICATIONS**

5. Notification of the death of Richard S. Bridges, Retired Police Officer; retired 9/3/86; died 8/27/09. Survivorship benefits to Hunter Bridges, son.
6. Notification of the death of Arthur J. Campos, Retired Police Officer; retired 6/4/86; died 7/7/09. Survivorship benefits to David J. Campos, son.
7. Notification of the death of Thomas J. Higgins, Retired Fire District Chief; retired 3/1/72; died 9/6/09. No survivorship benefits.

*These items are note and file.*

**NEW BUSINESS**

8. Approval of Reduced Retirement to Patricia Barredo, ex-spouse of Retired Deputy Fire Chief David Schoonover effective 9/1/09, under Part 17, Section 3.36.3600, SJ Municipal Code.

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

9. Request for Board discussion and direction to staff concerning Alex Gurza's memo dated September 21, 2009 concerning actuarial valuation issues.

**Member Keesling** stated Mr. Gurza's position was not very clear, but he does not feel this should go to the actuary.

**The Secretary** stated this item should be sent to all interested parties, including the actuary. The actuary needs to be prepared to address the issues raised.

*Ms. Dent* stated most of the memo is informational; however there is one part of the memo regarding the request for the actuary to provide alternate SRBR structures.

(M.S.C. Liccardo/Herrera) to forward this memo to the Board's actuary for information, excluding questions related to the SRBR. Motion carried 6-0-1.

**15. NEPC presentation of Asset/Liability Study and recommendation for full Board approval of study and selection of Asset Allocation Mix B. (Time Certain: 9:00 a.m.)**

*Mr. Martin* stated the purpose of the study is to determine whether or not the appropriateness of current and prospective asset mixes relate to the expected progression of liabilities and cash flows. NEPC recommends the Board adopt mix B, which diversifies the equity risks.

(M.S.C. Keesling/Taylor) to approve. Motion carried 6-0-1.

(Back on Agenda)

**OLD BUSINESS/CONTINUED-DEFERRED ITEMS**

**10. Oral update on Travel Audit compliance.**

*Mrs. Niebla* stated the Committee established in August will deal with the remaining three open items, and that Committee meets following this Board meeting.

**11. Board discussion and direction to staff re: ongoing litigation/case law on Public Records requests and how it relates to trustees' cell phones, PDAs, etc. and possibility of purchasing cell phones for Board member's use on retirement-related issues.**

*Ms. Dent* stated there is ongoing litigation with the City of San Jose regarding Public Records Act (PRA) requests related to cell phones or PDA devices. There is some case law on the issue from the Appellate Courts, which held that information put on a personal device was not public record. That decision was based on procedural law. The private device is not owned by the public, or controlled by the City, and the City Attorney's Office holds a similar position. The stipend has not been addressed by the courts.

**Chair Bacigalupi** stated if someone decides they are interested in a separate device for Board business, that request should come to the Board for creation of a policy.

- 12. Request for discussion and Board approval of the following staff recommendations regarding physicians' disability forms:**
- a. \$50 maximum fee per two-part form, Statement of Medical Condition and Request for Work Restrictions. Fees for two-part form only paid once per body part,
  - b. \$200 maximum fees paid per applicant, and
  - c. No reimbursement for prior paid fees.

*Mrs. Busse* responded to questions regarding surveyed data and stated that staff received feedback from 12 CA Public Plans surveyed, and addressed questions related to multiple body parts.

**Chair Bacigalupi** stated the applicants don't know what body part(s) will be enough to qualify the medical evidence to show the disability.

*Ms. Dent* stated the applicant is in a position to know which injury is most significant. There needs to be a rule that treats all applicants the same.

*Mr. Swift* stated historically the Board paid upwards of \$500 for medical legal evaluations. Those evaluations had the doctor look at all body parts and produce a 10-15 page report. The Medical Director now performs that

function but now wants applicants to pay for a form. The doctors in the field can still charge what fee they choose for filling out the form.

**Chair Bacigalupi** stated this item needs more work and referred it to the Committee, and requested Board members to participate.

*Item deferred until after the Committee obtains additional data.*

13. Review of staff report on services provided to the Board by the Medical Director and request for Board direction on the potential for issuing RFP for medical services.

**Chair Bacigalupi** stated he has received information on this matter, and needs more time to gather additional details related to the history of the medical director position.

*Item deferred*

## **STANDING COMMITTEES / REPORTS / RECOMMENDATIONS**

### **Investments Committee (Johnson, Bacigalupi, Keesling – Alternate: Liccardo)**

14. Summary of meeting held 20 August 2009.
  - a. Approval of NEPC's recommendation to grant WAMCO a temporary investment policy exception to increase range of downgraded securities from 2% to 10% for 6 months.

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

- b. Approval to accept Boston Company's 5% fee reduction for 3 years effective 7/1/09.

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

- c. Approval to accept INTECH's request for investment policy exception to limit security variation to no more than 2.5% of security's weight in the benchmark.

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

### **Real Estate Committee (Bacigalupi, Keesling, Taylor – Alternate: Herrera)** **Audit Committee (Taylor, Brill, Johnson – Alternate: Bacigalupi) - TBD**

## **CONSENT CALENDAR (Items 16-23)**

**Chair Bacigalupi** pulled Items 23a and b.

(M.S.C. Herrera/Brill) to approve Consent Calendar with the exception of Items 23a and b. Motion carried 6-0-1.

## **23. Communication/Information**

- a. Report of P&F Retirement Plan Investments as of July 2009

**The Secretary** clarified the reports are measured from July 1 with snapshots at 3, 6, and 9 months. July 1 to June 30 is the fiscal year.

b. Informational memo on Group Retirement Counseling

Chair Bacigalupi stated he wanted to compliment staff on the comprehensive memo.

(M.S.C. Brill/Herrera) to approve Items 23 a & b. Motion carried 6-0-1.

## PUBLIC COMMENTS

## PROPOSED AGENDA ITEMS

The following items were requested to be agendized:

1. FLSA Issue
2. Cortex Update

## EDUCATION AND TRAINING

Notification of IFEBP's 55<sup>th</sup> Annual Employee Benefit Conference scheduled to occur in Orlando, Florida, November 8 through 11, 2009.

Chair Bacigalupi stated he received the IFEBP conference material and would like the Board to be informed of that opportunity.

## ADJOURNMENT

Chair Bacigalupi adjourned the meeting at 10:35 a.m. into Closed Session.

### 2. Disabilities

Jacob T. Ferguson, Police Officer, Police Department. Request for Service-Connected Disability Retirement effective May 30, 2009; 7.07 years of service.  
**(Closed Session Requested)**

(M.S.C. Liccardo/Keesling) to approve a nonservice-connected disability retirement. Motion carried 6-0-1.



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DAVID BACIGALUPI, CHAIR  
BOARD OF ADMINISTRATION

ATTEST:



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RUSSELL U. CROSBY, SECRETARY  
BOARD OF ADMINISTRATION