

POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

Minutes of the Board Meeting

Thursday

SAN JOSÉ, CALIFORNIA

September 6, 2012

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met on Thursday, September 6, 2012 in regular session at City Hall Wing Rooms 118/119, 200 East Santa Clara Street, San José, California 95113. Chair Sean Kaldor called the meeting to order at 8:34 a.m.

BOARD MEMBERS

Sean Kaldor, Chair	-Present
Richard Santos, Vice Chair	-Present
David Bacigalupi	-Present
Sean Bill	-Absent
Damon Krytzer	-Absent
Drew Lanza	-Present
James Mason	-Absent
Elizabeth Rounds	-Present
Vincent Sunzeri	-Present

ALSO PRESENT

Tim McCusker, NEPC
 Dan LeBeau, NEPC
 Kevin Tatlow, NEPC
 Robert Sapien Jr., San Jose Local 230
 John McBride, Attorney
 Marty Jo Luis, Police Personnel
 John Rose, Police Personnel
 Sam Swift, Attorney
 Tom Boyle, Attorney
 Devlin Creighton, Police
 Erik Colandone, Police
 Ron DAcchioli, Fire Department
 Joseph Ysselstein, Fire Department
 Jim Spence, P&F Association
 Paul Schuller, Fire Retiree
 Mary L, Fire Department
 Bill Hallmark, Cheiron

CALL TO ORDER: 8:34 a.m.

• ORDERS OF THE DAY

- Item 4.2(e) – Defer.
- Item 4.2(g) – Correction – effective date June 23, 2012.

NON-VOTING BOARD MEMBER

Pete Constant	-Absent
Patrick Connolly	-Present

ACTING DIRECTOR RETIREMENT SERVICES

Donna Busse	-Present
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COUNSEL

Harvey Leiderman	-Present
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BOARD MEDICAL DIRECTOR

Rajiv Das, M.D. – Present

RETIREMENT SERVICES STAFF

PRESENT

Toni Johnson
 Veronica Niebla
 Ron Kumar
 Tram Doan
 Sonia Morales
 Jennifer Holmboe
 Christina, Lynne
 Jesselle Holcomb
 Melanie Kirmse
 Maria Loera

Access the video or audio, the agenda and related reports for this meeting by visiting the Retirement Services website at <http://sjretirement.com/> or http://sanjose.granicus.com/ViewPublisher.php?view_id=44. If you have any questions, please contact the Retirement Services Department at (408) 794-1000.

Item 4.2(h) – Correction – effective date April 14, 2012.

Item 4.2(j) – Correction – should be Non-Service-Connected Disability.

Item 2.3 – Correction – add Vincent Sunzeri on Ad Hoc Personnel Committee list.

Item 6.2 – Received late

Item 2.4 – Waive Sunshine for June 2012 Plan Expenses

A motion was made to Waive Sunshine for Item 2.4 June 2012 Expenses.

Approved. (M.S.C. – Santos/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

Chair Kaldor pulled Item 7.4(f), announced and welcomed Donna Busse as the new Acting Director of Retirement Services.

1. INVESTMENTS

1.1 **Presentation by NEPC, LLC of the Quarterly Investment Performance Report for period ending June 30, 2012.**

Allan Martin and John LeBeau fro NEPC the Quarterly Investment Performance Report for period ending June 30, 2012.

Entered into Closed Session at 9:01 a.m. Trustee Lanza recused himself from Closed Session due to recognizing name of one of the investment fund managers as a family relative and noted that he and his family have no moneys invested with the fund or are aware of any related trusts corporations or companies.

1.2 **CLOSED SESSION: Conference with Investment Consultant pursuant to Government Code Section 54956.81 to consider purchase of particular pension fund investment.**

Board reconvened from Closed Session at 9:24 a.m. There was no reportable action out of Closed Session for Item 1.2.

OPEN SESSION

2. NEW BUSINESS

2.1 **Discussion and action on report back from actuary Cheiron regarding Service Purchases.**

Bill Hallmark was present with Gene Kalwarski (via teleconference). They made a presentation on the cost impact of Service Purchases and responded to questions from the Board.

Item was continued to following Board meeting with direction to have Cheiron provide a deeper analysis or classification pursuing Option 2 identified in their presentation. Fiduciary Counsel also to report back to the Board on whether the Board has the ability to not count service purchase credit towards retirement eligibility.

2.2 **Discussion and action on actuary Cheiron's letter regarding Higher Class and FLSA issue.**

Bill Hallmark from Cheiron led the discussion regarding Cheiron's letter regarding Higher Class and FLSA issue. Ms. Niebla reported that it would be very helpful to have an in-house policy that would outline how to handle corrections and adjustments and when to consult with the

Actuary. Dan Kadamoto from the Finance Department reported that Finance has received the letter and are in the review process and will follow-up with Retirement Services.

A motion was made to accept recommendation that the Board not permit the City to offset its actuarially required contribution for the next fiscal year.

Approved. (M.S.C. – Santos/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

- 2.3 Discussion and action on Police & Fire Retirement Board committee structure, including consolidation and transition from ad hoc to formal where appropriate.

Deferred.

- 2.4 **Discussion and action on Plan Expenses for June 2012 and July 2012.**

Trustee Rounds stated that it would be helpful if the Plan Expenses showed the total of expenses and budgets for both Boards. Ms. Niebla stated that she will provide a similar document already submitted to the Federated Retirement Board and will see if modifications are needed.

A motion was made to approve the Plan Expenses for June 2012 and July 2012.

Approved. (M.S.C. – Santos/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

- 2.5 **Discussion and action on review of tax counsel activities charged to the pension trust for 2010, 2011 and 2012.**

A motion was made to refer Item 2.5 to the Audit Committee to review tax counsel's activities and charges to the pension trust for 2010, 2011 and 2012, and report back to the Board on its findings.

Approved. (M.S.C. – Kaldor/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

Item 2.6 was heard after Item 2.2.

- 2.6 **Discussion and action on conduct of closed Board meetings to consider specific disability cases.**

Ms. Busse led the discussion regarding conduct of closed Board meetings to consider specific disability cases. She noted that the Board has customarily heard disability matters in closed session whenever a member's file included potentially "stigmatizing" materials. She added that the Board also needed to be sensitive about their discussion in open session because there could be sensitive information in the medical reports even though condition itself may not be stigmatizing.

A motion was made to approve the recommendation by the Ad Hoc Disability Committee and Counsel.

Approved. (M.S.C. – Santos/Lanza, 6-0-3, Absent – Bill, Krytzer and Mason)

- 2.7 **Discussion and action on a strategic plan meeting.**

Chair Kaldor asked the Board Members to submit any issues they want to be discussed at a future strategic plan meeting within two weeks.

3. **OLD/BUSINESS/CONTINUED-DEFERRED ITEMS**

3.1 **Update on payroll audit, FLSA and overtime payment issues. Receive and file.**

Ms. Niebla reported to the Board that a new revised FLSA file should be delivered today.
Receive and File.

3.2 **Update on electronic Board packets.**

Ms. Busse reported to the Board that SIRE was acquired by another company and are not signing any contracts until the company has had an opportunity to review all contracts. Staff will continue to review viability of SIRE.
Receive and file.

3.3 **Update from Councilmember Constant. Receive and file.**

3.4 **Discussion and action regarding how members receive refunds of 401(h) contribution amounts when a member terminates before retirement.**

Ms. Niebla led the discussion regarding how members receive refunds of the 401(h) contribution amounts and responded to questions from the Board. Alex Gurza, Deputy City Manager addressed the Board. He noted that the City never intended that employee contributions into the 115 Trust could be returned to withdrawing employees in the manner that contributions into the 401(h) Account in the Plan are returned.

A motion was made to have Counsel refer to Tax Counsel and report back to the Board on the legality of the process, the IRS compliance and the City's requirement.

Approved. (M.S.C. – Bacigalupi/Kaldor, 6-0-3, Absent – Bill, Krytzer and Mason)

Entered in Closed Session at 2:49 p.m. Chair Kaldor reads Items 3.5, 3.6 and 3.7 into record.

3.5 **CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a),**

Paul Mulholand, et al v. City of San Jose, et al, Santa Clara County Superior Court
Case No. 1-12-CV-219748

3.6 **CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a) (3 CASES)(MEASURE B LITIGATION)**

San Jose Police Officers' Association v. City of San Jose, et al, Santa Clara County Superior Court, No. 1-12-CV-225926

City of San Jose v. San Jose Police Officers' Association, et al. United States District Court for the Northern District of California,
Case No. C12-02904 LHK-PSG

Sapien vs. City of San Jose, et al, Santa Clara County Superior Court,
Case No. 1-12-CV-225928.

- 3.7 **CLOSED SESSION**: CONFERENCE WITH LEGAL COUNSEL - PURSUANT TO GOVERNMENT CODE SECTION 54956.9(c) – Deciding whether to initiate litigation (one case).

Chair Kaldor reconvened from Closed Session at 3:40 p.m. There was no reportable action out of Closed Session.

OPEN SESSION

Item 4-Retirements were heard after Item 2.6.

4. **RETIREMENTS** - 10:30 a.m. or soon thereafter as possible
Board may go into Closed Session to consider some or all of the disability cases.

4.1 Service Retirement

- a. **Joe Hernandez**, Police Sergeant, Police Department, effective October 1, 2012; 27.48* years of service. **Approved. (M.S.C. – Bacigalupi/Santos, 6-0-3, Absent – Bill, Krytzer and Mason)**

4.2 Service-Connected Disability

- a. **Michael T Albin**, Police Office, Police Department, effective September 6, 2012; 12.16* years of service. Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Albin was present and represented by Attorney Thomas Boyle. The following medical reports were presented to the Board:

LISTING OF MEDICAL REPORTS

<p>Body Part: Left Knee</p> <p><u>Documentation of Mechanism of Injury:</u></p> <p>1. February 10, 2005, by Arthur Ting, M.D.</p> <p><u>Documentation of Medical Treatment/Assessment/Disability:</u></p> <p>1. February 11, 2005, by Christopher Govea, M.D. 2. April 21, 2005, by Arthur Ting, M.D. 3. May 31, 2005, by Arthur Ting, M.D. 4. January 6, 2006, by Arthur Ting, M.D. 5. June 2, 2006, by Arthur Ting, M.D. 6. October 26, 2007, by Arthur Ting, M.D. 7. January 18, 2008, by Lawrence Chan, M.D. 8. January 25, 2008, by Arthur Ting, M.D. 9. February 12, 2010, by Arthur Ting, M.D. 10. October 12, 2010, by Charles Borgia, M.D. 11. December 14, 2010, by Charles Borgia, M.D.</p>	<p>15. February 2, 2012, by Charles Borgia, M.D. 16. February 28, 2011, by Ravi Singh, M.D. 17. March 1, 2011, by Charles Borgia, M.D. 18. May 31, 2011, by Charles Borgia, M.D. 19. July 11, 2011, by Mark Golod, M.D. 20. July 12, 2011, by Charles Borgia, M.D. 21. September 1, 2011, by Timothy Hovland, PA-C 22. September 1, 2011, by Mark Golod, M.D. 23. November 9, 2011, by Charles Borgia, M.D. 24. December 21, 2011, by Mark Golod, M.D. 25. January 12, 2012, by Timothy Hovland, PA-C 26. January 12, 2012, by Mark Golod, M.D. 27. February 1, 2012, by Charles Borgia, M.D. 28. February 15, 2012, by Mark Golod, M.D. 29. May 2, 2012, by Charles Borgia, M.D.</p>
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<p>12. January 25, 2011, E.R. Evaluation 13. January 25, 2011, by Robert Lim, M.D. 14. January 26, 2011, by Katrina Barnett, M.D.</p>	<p>30. July 19, 2012, by Charles Borgia, M.D. 31. July 25, 2012, by Charles Borgia, M.D. 32. July 25, 2012, by Charles Borgia, M.D.</p>
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A motion was made to approve a Service-Connected Disability for Michael T. Albin based on medical evidence provided.

Approved. (M.S.C. – Santos/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

- b. **Erik Colandone, Police Officer, Police Department, effective September 6, 2012; 12.94* years of service.** Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Colandone was present represented by Attorney Thomas Boyle. The following reports were presented to the Board:

LISTING OF MEDICAL REPORTS

<p>Body Part: Neck</p> <p><u>Documentation of Mechanism of Injury:</u></p> <p>None specified by Dr. Das</p> <p><u>Documentation of Treatment/Assessment/Disability:</u></p> <p>1. January 18, 2007, by Mark Culton, M.D.</p> <p><u>Documentation of Assessment/Treatment/Disability:</u></p> <p>1. January 18, 2008, by Mark Sontag, M.D. 2. March 28, 2008, by Betsy Holland, M.D. 3. April 24, 2008, by Mark Sontag, M.D. 4. January 23, 2009, by Bruce McCormack, M.D. 5. February 23, 2009, by Paul Slosar, M.D. 6. March 5, 2009, by Bruce McCormack, M.D. 7. June 3, 2009, by Conor O'Neill, M.D. 8. July 24, 2009, by Edward Sun, M.D. 9. October 16, 2009, by Evaleen Jones, M.D. 10. December 1, 2009, by Mark Sontag, M.D. 11. March 30, 2010, by Dimitriy Kondrashov, M.D. 12. June 9, 2010, by Dimitriy Kondrashov, M.D. 13. June 22, 2010, by Dimitriy Kondrashov, M.D.</p>	<p>14. September 21, 2010, by Dimitriy Kondrashov, M.D. 15. November 4, 2010, by Jeffrey Riley, M.D. 16. January 7, 2011, by Dimitriy Kondrashov, M.D. 17. February 4, 2011, by Randall Seago, M.D. 18. February 24, 2011, by Dimitriy Kondrashov, M.D. 19. February 25, 2011, by Michael Nguyen, M.D. 20. March 8, 2011, by Dimitriy Kondrashov, M.D. 21. April 5, 2011, by Dimitriy Kondrashov, M.D. 22. May 31, 2011, by Dimitriy Kondrashov, M.D. 23. August 9, 2011, by Dimitriy Kondrashov, M.D. 24. September 7, 2011, by Dimitriy Kondrashov, M.D. 25. September 7, 2011, by Dimitriy Kondrashov, M.D. 26. October 6, 2011, by Dimitriy Kondrashov, M.D. 27. October 6, 2011, by Dimitriy Kondrashov, M.D. 28. November 9, 2011, by Mark Sontag, M.D. 29. November 9, 2011, by Mark Sontag, M.D.</p>
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Trustee Sunzeri and Trustee Rounds were concerned with information on Page 8 of Dr. Das's report regarding additional treatment for pain that seemed to have no connection with the symptoms and injury. The applicant orally amended his application to include his shoulder injury.

The Board continued discussion.

A motion was made to approve the Service-Connected Disability for Erik Colandone and to amend the application to include the right shoulder based on evidence.

Approved. (M.S.C. – Bacigalupi/Santos, 6-0-3, Absent – Bill, Krytzer and Mason)

- c. **Devlin Creighton, Police Officer, Police Department, effective September 6, 2012; 4.95* years of service. (Continued from August Board meeting).** Toni Johnson, Acting Benefits Manager read the medical restrictions into record. Mr. Creighton was present, represented by Attorney Sam Swift. The following reports were presented to the Board.

LISTING OF MEDICAL REPORTS

<p>Body Part: Neck</p> <p><u>Documentation of Mechanism of Injury:</u></p> <ol style="list-style-type: none"> 1. March 28, 2011, by Richard Kine, M.D. 2. March 28, 2011, by Kyle Yu, M.D. 3. March 28, 2011, by Sam Kokoris, M.D. 4. March 29, 2011, by Emeka Nchekwube, M.D. 5. March 29, 2011, by Aaron Kaplan, M.D. 6. March 30, 2011, by Aaron Kaplan, M.D. – addendum 7. March 30, 2011, by Aaron Kaplan, M.D. 8. April 18, 2011, by Matthew Tran, M.D. 9. May 4, 2011, by Judith Peto, PA-C 10. July 14, 2011, by Matthew Tran, M.D. 11. July 14, 2011, by Emeka Nchekwube, M.D. 12. July 14, 2011, by Judith Peto, PA-C 13. August 24, 2011, by Emeka Nchekwube, M.D. 14. October 28, 2011, by Emeka Nchekwube, M.D. 15. October 28, 2011, by Kenneth Ong, M.D. 16. November 15, 2011, by Ravi Singh, M.D. 17. December 7, 2011, by Judith Peto, PA-C 18. March 8, 2012, by Emeka Nchekwube, M.D. 19. March 8, 2012, by Emeka Nchekwube, M.D. 20. June 19, 2012, by Patrick McCreesh, M.D. 	<p>Body Part: Right and left wrist.</p> <p><u>Documentation of Mechanism of Injury</u></p> <ol style="list-style-type: none"> 1. March 28, 2011, by Richard Kline, M.D. <p><u>Documentation of Medical Treatment/Assessment/Disability:</u></p> <ol style="list-style-type: none"> 1. April 27, 2011, by Bruce Huffer, M.D. 2. October 6, 2011, by Harjot Sekhon, M.D. 3. October 12, 2011, by Murray Solomon, M.D. 4. November 18, 2011, by Edward Damore, M.D. 5. March 13, 2012, by Edward Damore, M.D. 6. March 13, 2012, by Edward Damore, M.D. 7. March 12, 2012, by Edward Damore, M.D. 8. March 13, 2012, by Edward Damore, M.D. <p><u>Additional Documentation Requested by the Board at the 8/2/12 Meeting</u></p> <ol style="list-style-type: none"> 1. August 13, 2012, by Emeka Nchekwube, M.D.
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Attorney Swift addressed the Board regarding the disability case. Dr. Das stated that with additional treatment would not improve the injury.

A motion was made to approve the Service-Connected Disability for Devlin Creighton.

Approved. (M.S.C. – Bacigalupi/Santos, 6-0-3, Absent – Bill, Krytzer and Mason)

- d. **Mark DeMaria, Police Officer, Police Department, effective September 6, 2012 11.00***
years of service. Attorney Thomas Boyle was present to report that Mr. DeMaria has requested to Defer hearing to complete medical treatment and may be able to return to full-duty.
Defer

- e. **David J. Gonzalez, Police Officer, Police Department, effective September 6, 2012; 12.24***
years of service.
Defer, as noted on Orders of the Day.

- f. **Shane Granberg, Police Officer, Police Department, effective September 6, 2012; 11.11***
years of service. Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Granberg was present, represented by Attorney John McBride.

LISTING OF MEDICAL REPORTS

<p>Body Part: Left Hand</p> <p><u>Documentation of Mechanism of Injury:</u></p> <p>1. July 24, 2007, by Arthur Ting, M. D.</p> <p><u>Documentation of Treatment/Assessment/Disability:</u></p> <p>1. February 22, 2012, by Ali Soozani, D.O. 2. April 27, 2012, by Annu Navani, M.D. 3. April 27, 2012, by Annu Navani, M.D. 4. May 18, 2012, by Annu Navani, M.D. 5. May 18, 2012, by Annu Navani, M.D.</p> <p>Body Part: Left shoulder, upper back, neck.</p> <p><u>Documentation of Mechanism of Injury</u></p> <p>1. July 24, 2007, by Arthur Ting, M.D.</p> <p><u>Documentation of Treatment/Assessment/Disability:</u></p> <p>1. August 14, 2007, by David 2. November 15, 2007, by Grady Jeter, M.D. 3. October 16, 2007, by John Colman, M.D. 4. November 27, 2007, by Mahesh Patel, M.D. 5. January 28, 2008, by Peter Abaci, M. D. 6. February 10, 2009, by Peter Abaci, M.D. 7. July 22, 2009, by Rory Satterfield, M.D. 8. July 28, 2009, by Grady Jeter, M.D. 9. September 24, 2009, by Grady Jeter, M.D.</p>	<p>10. November 3, 2009, by Rory Satterfield M.D. 11. December 16, 2009, by Janice Santos, N.P. 12. January 11, 2010, by Glenn Strome, M.D. 13. May 17, 2011, by Patrick McCreesh, M.D. 14. July 26, 2011, by Judith Peto, PA-C. 15. August 11, 2011, by Arthur Ting, M.D. 16. September 13, 2011, by Catherina Fu, M.D. 17. September 13, 2011, by Catherina Fu, M.D. 18. October 8, 2011, by Arthur Ting, M.D. 19. November 18, 2011, by Arthur Ting, M.D. 20. January 25, 2012, by Annu Navani, M.D. 21. March 15, 2012, by Arthur Ting, M.D. 22. April 27, 2012, by Annu Navani, M.D. 23. April 27, 2012, by Annu Navani, M.D. 24. April 27, 2012, by Annu Navani, M.D. 25. April 27, 2012, by Annu Navani, M.D. 26. April 27, 2012, by Annu Navani, M.D. 27. April 27, 2012, by Annu Navani, M.D. 28. April 27, 2012, by Annu Navani, M.D. 29. April 27, 2012, by Annu Navani, M.D. 30. May 18, 2012, by Annu Navani, M.D. 31. May 18, 2012, by Annu Navani, M.D. 32. May 18, 2012, by Annu Navani, M.D. 33. May 16, 2012, by Annu Navani, M.D. 34. May 18, 2012, by Annu Navani, M.D. 35. May 18, 2012, by Annu Navani, M.D. 36. May 2, 2012, by Arthur Ting, M.D. 37. May 2, 2012, by Arthur Ting, M.D. 38. June 14, 2012, by Michael Lennon, D.C. 39. June 14, 2012, by Arthur Ting, M.D. 40. July 11, 2012 by Alfredo Fernandez, MD.</p>
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Attorney McBride addressed the Board and responded to questions from the Board. Brief discussion continued.

A motion was made to continue hearing the application to the next Board meeting in order to permit the applicant to submit more medical information that would address concerns from the Board regarding his case.

Continued

- g. **Eric S. Kurz, Police Officer, Police Department, effective September 6, 2012; 10.00* years of service.** (Closed session requested by applicant pursuant to Government Code Section 54957) Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Kurz was present represented by Attorney John McBride.
 Effective date is June 23, 2012, as noted in Orders of the Day.

Upon the applicant's request that the matter be heard in closed session, the Board entered into Closed Session at 12:21 p.m.

Chair Kaldor reconvened from Closed Session at 12:50 p.m.

Chair Kaldor stated that the Board agreed to hear the case in Closed Session including the recommendations by staff and Dr. Das.

A motion was made to approve the Service-Connected Disability for Eric S. Kurz.
Approved. (M.S.C. – Bacigalupi/Santos, 6-0-3, Absent – Bill, Krytzer and Mason)

OPEN SESSION

- h. **Steve Maraldo, Fire Fighter, Fire Department, effective September 6, 2012; 6.12* years of service.** Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Maraldo was present represented by Attorney John McBride. The following reports were presented to the Board.
 Effective date is April 14, 2012, as noted on Orders of the Day.

LISTING OF MEDICAL REPORTS

<p>Body Part: Back</p> <p><u>Documentation of Mechanism of Injury:</u></p> <ol style="list-style-type: none"> 1. November 30, 2010, by John Colman, M.D. 2. November 8, 2010, by John Colman, M.D. 3. December 3, 2010, by Mark Culton, M.D. 4. December 20, 2010, by Jeffrey Coe, M.D. 5. January 31, 2011, by Jeffrey Coe, M.D. 6. March 1, 2011, by Stephen A. Genest, M.D. 	<ol style="list-style-type: none"> 7. March 23, 2011, by Randall Seago, M.D.. 8. April 28, 2011, by Jeffrey Coe, M.D. 9. June 27, 2011, by Justin Lo, M.D. 10. May 9, 2011, by Jeffrey Coe, M.D. 11. July 7, 2011, by Justin Lo, M.D. 12. October 4, 2011, by Mark Culton, M.D. 13. March 21, 2012, by Justin Lo, M.D. 14. April 11, 2012, by Randall Seago, M.D. 15. May 7, 2012, by Justin Lo, M.D. 16. May 8, 2012, by Justin Lo, M.D. 17. May 8, 2012, by Justin Lo, M.D.
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A motion to approve the Service-Connected Disability for Steve Maraldo was denied.

Motion did not pass.

(M.S.C. Kaldor/Bacigalupi, 2-4-3, No-Sunzeri, Lanza, Santos, Rounds, Absent – Bill, Krytzer and Mason).

A motion to deny the application was made by Sunzeri, 2nd by Lanza.

Brief discussion continued.

Motion was withdrawn first by Sunzeri, 2nd by Lanza.

Attorney requested to continue the case until further medical information is provided that were addressed at the Board meeting.

Continued to the next Board meeting.

- i. **Matthew Vavasour, Fire Fighter, Fire Department, effective January 22, 2012; 5.83* years of service.** Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Vavasour was present and represented by Attorney John McBride. The following reports were presented to the Board.

LISTING OF MEDICAL REPORTS

<p>Body Part: Lower back</p> <p><u>Documentation of Mechanism of Injury:</u></p> <ol style="list-style-type: none"> 1. September 13, 2010, by Ronald Joseph, M.D. <p><u>Documentation of Assessment/Treatment/Disability:</u></p> <ol style="list-style-type: none"> 1. September 13, 2010, by Ronald Joseph, M.D. 2. November 18, 2010, by Scott Werden, M.D. 3. October 13, 2010, by Jeffery Coe, M.D. 4. November 22, 2010, by Jeffery Coe, M.D. 5. December 8, 2010, by Jeffery Coe, M.D. 6. January 4, 2011, by Jeffery Coe, M.D. 7. January 17, 2011, by Jeffery Coe, M.D. 8. May 16, 2011, by Jeffery Coe, M.D. 	<ol style="list-style-type: none"> 9. June 8, 2011, by Paul Nottingham, M.D. 10. June 23, 2011, by Charles Fiske, M.D. 11. June 30, 2011, by Paul Nottingham, M.D. 12. July 28, 2011 by Michael Butler, M.D. 13. August 10, 2011, by Paul Nottingham, M.D. 14. September 1, 2011, by Catherina Fu, M.D 15. September 8, 2011, by Paul Nottingham, M.D. 16. October 20, 2011, by Fred Naraghi, M.D. 17. October 20, 2011, by Paul Nottingham, M.D. 18. January 27, 2012, by Nabil Athanassious, M.D.. 19. March 8, 2012, by Paul Nottingham, M.D. 20. April 4, 2012, by Paul Nottingham, M.D. 21. May 2, 2012, by Paul Nottingham, M.D. 22. May 17, 2012, by Paul Nottingham, M.D. 23. May 24, 2012, send by Paul Nottingham, M.D. 24. May 24, 2012, by Paul Nottingham, M.D. 25. May 30, 2012, by Paul Nottingham, M.D.
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The Board discussed.

A motion was made to approve a Service-Connected Disability for Matthew Vavasour.

Approved. (M.S.C. – Kaldor/Bacigalupi, 5-1-3, No – Sunzeri, Absent – Bill, Krytzer and Mason)

Item 4.2(j) correction, should be Non-Service Connected Disability, as noted on Orders of the Day.

- j. **Joseph H. Ysselstein**, Fire Captain, Fire Department, effective September 6, 2012; 11.23* years of service. Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Ysselstein was present. The following reports were presented to the Board.

LISTING OF MEDICAL REPORTS

Body Part: Spinal Cord and Brain

Documentation of Mechanism of Injury:

None

Documentation of Medical Treatment/ Assessment/Disability:

1. June 26, 2012, by Michael Gansaeuer, M.D.
2. June 25, 2012, by Tim Washowich, M.D.
3. June 22, 2012, by Tim Washowich, M.D.
4. June 22, 2012, by Tim Washowich, M.D.
5. July 2, 2012, by Carlene Hawksley, M.D.
6. July 10, 2012, signed by Michael Gansaeuer, M.D.
7. July 10, 2012, by Michael Gansaeuer, M.D..

A motion was made to approve the Non-Service-Connected Disability for Joseph Ysselstein based on medical evidence.

Approved. (M.S.C. – Bacigalupi/Kaldor, 6-0-3, Absent – Bill, Krytzer and Mason)

4.3 Change of Status to Service-Connected Disability

- a. **Paul A. Schuller**, Battalion Chief, Fire Department. Request for a change of status from a Service Retirement to a Service-Connected Disability Retirement, effective June 11, 2011; 22.89* years of service. *(With reciprocity)*. Toni Johnson, Acting Benefits Manager read the medical restrictions into the record. Mr. Schuller was present and represented by Attorney Sam Swift. The following reports were presented to the Board:

LISTING OF MEDICAL REPORTS

<p>Body Parts:</p> <ol style="list-style-type: none"> 1. Neck and Mid-Back 2. Left shoulder. 3. Lower back. 4. Right knee. 5. Left Ankle. <p>Body Part: Neck</p> <p>Documentation of Mechanism of Injury:</p> <ol style="list-style-type: none"> 1. September 6, 2007, by Mark Eastland, DC. 2. January 28, 2008, by Patrick McCreesh, M.D. <p>Documentation of Medical Treatment/Assessment/Disability:</p>	<p>Body Part: Lower Back</p> <p>Documentation of Mechanism of Injury:</p> <ol style="list-style-type: none"> 1. November 6, 2009, by Judith Peto, PA-C. <p>Documentation of Medical Treatment/Assessment/Disability:</p> <ol style="list-style-type: none"> 1. December 22, 2009, by Michael Dick, M.D. 2. January 4, 2011 by Allen Kaisler-Meza, M.D. 3. March 30, 2011, by Ray Hsieh, M.D. 4. May 18, 2011, by Allen Kaisler-Meza, M.D. 5. August 29, 2011, by Allen Kaisler-Meza, M.D. 6. August 29, 2011, by Allen Kaisler-Meza, M.D. 7. August 21, 2011, by Allen Kaisler-Meza, M.D.
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<ol style="list-style-type: none">1. February 5, 2008, by Murray Solomon, M.D.2. June 4, 2010, by Christopher Chen, M.D.3. June 10, 2010, by James Han, D.O.4. December 15, 2010, by Allen Kaisler-Meza, M.D.5. January 21, 2011, by Allen Kaisler-Meza, M.D.6. March 22, 2011, by Allen Kaisler-Meza, M. D.7. May 18, 2011, by Allen Kaisler-Meza, M.D.8. August 29, 2011, signed by Allen Kaisler-Meza, M.D.9. August 29, 2011, by Allen Kaisler-Meza, M.D. <p>Body Part: Left Shoulder</p> <p>Documentation of Mechanism of Injury:</p> <p>None</p> <p>Documentation of Medical Treatment/Assessment/Disability:</p> <ol style="list-style-type: none">1. December 11, 2008, by John Rennick, M.D.2. June 30, 2010, by Michael Dick, M.D.3. September 8, 2010 by Eugene DellaMaggiore, M.D.4. September 28, 2010, by Scott Werden, M. D.5. January 18, 2011 by Eugene DellaMaggiore, M.D.6. February 11, 2011 by Eugene DellaMaggiore, M.D.7. February 16, 2011, by Eugene DellaMaggiore, M.D.8. July 12, 2011, by Allen Kaisler-Meza, M.D.9. July 12, 2011, by Eugene DellaMaggiore, M.D.10. August 30, 2011, by Eugene DellaMaggiore, M. D.11. August 30, 2011, by Eugene DellaMaggiore, M.D.12. August 30, 2011, by Eugene DellaMaggiore, M.D.	<ol style="list-style-type: none">8. August 24, 2011, by Allen Kaisler-Meza, M.D.9. May 23, 2012 by Christopher Chen, MD.10. June 6, 2012 by James Han, M.D. <p>Body Part: Right Knee</p> <p>Documentation of Mechanism of Injury:</p> <ol style="list-style-type: none">1. December 8, 2008, by William Martin, M.D. <p>Documentation of Medical Treatment/Assessment/Disability:</p> <ol style="list-style-type: none">1. December 11, 2008, by John Rennick, M.D.2. August 24, 2011, by Allen Kaisler-Meza, M.D.3. August 24, 2011, by Allen Kaisler-Meza, M.D. <p>Body Part: Left Ankle</p> <p>Documentation of Mechanism of Injury:</p> <ol style="list-style-type: none">1. January 28, 2008, by Patrick McCreesh, M.D. <p>Documentation of Medical Treatment/Assessment/Disability:</p> <ol style="list-style-type: none">1. June 10, 2008, by Nicholas Abidi, M.D.2. June 24, 2008, by Lawrence Chan, M.D.3. September 30, 2008, by Nicholas Abidi, M.D.4. September 30, 2008, by Nicholas Abidi, M.D.5. October 21, 2008, by Nicholas Abidi, M.D.6. November 4, 2008, by Brian Martin, PA-C.7. October 5, 2010 by Nicholas Abidi, M.D.8. February 24, 2011, by Allen Kaisler-Meza, M.D.9. April 21, 2011 by Cely Queiroz, PA-C9. May 18, 2011, by Allen Kaisler-Meza, M.D.10. August 21, 2011, by Allen Kaisler-Meza, M.D.12. August 24, 2011, by Allen Kaisler-Meza, M.D.
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A motion was made to approve a Change of status to a Service-Connected Disability for Paul A. Schuller based on medical evidence.

Approved. (M.S.C. – Santos/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

Board break at 2:00 p.m. and reconvened at 2:20 p.m. Item 2.3 was heard next.

5. **DEATH NOTIFICATIONS** - None

6. **COMMITTEE MINUTES, REPORTS AND RECOMMENDATIONS**

Item 6.1 was heard out of order after Closed Session Items 3.5, 3.6 and 3.7.

6.1 **Investment Committee (Sunzeri/Bill/Kaldor/Krytzer)**

– Last Meeting: August 23, 2012

– Next Meeting: September 12, 2012.

a. **Report from the Chair of the Investment Committee. Receive and file.**

Chair of the Investment Committee, Trustee Sunzeri updated the Board on the status of the Investment Committee's projects: Workplan and that the main focus will be on transition to the new asset allocation mix. The Investment Committee and Staff also working with Albourne to fund the absolute return asset class..

b. **Minutes of June 28, 2012, Police & Fire Investment Committee. Receive and file.**

6.2 Ad Hoc Governance Committee-Cortex Phase II (Kaldor/Lanza/Rounds/Santos)

- Last Meeting: August 31, 2012

- Next Meeting: TBD

a. **Report from the Chair of Ad Hoc Governance Committee-Cortex Phase II. Receive and file.**

Chair Kaldor updated the Board on the report outline prepared by Cortex and asked the Board to review the outline and report any concerns or feedback to him to be discussed at the next Governance Committee.

Receive and file.

6.3 Ad Hoc Personnel Committee (Lanza/Kaldor/Rounds)

- Last Meeting: July 19, 2012

- Next Meeting: TBD

a. **Report from the Chair of Ad Hoc Personnel Committee. Receive and file.**

Chair of the Ad Hoc Personnel Committee, Trustee Lanza reported to the Board on the status of the Ad Hoc Personnel Committee projects.

b. **Discussion and action on the Board process to review, evaluate, interview, and recommend candidates for the Director of Retirement Services (CEO) and Assistant Director of Retirement Services (CIO).**

Chair Kaldor solicited Trustees to be on the panel to interview. Trustee Lanza requested that the Ad Hoc Personnel Committee to provide the interview for the Director position.

A motion was made for the Ad Hoc Personnel Committee to review the applications for the Director of Retirement Services or the CIO position, go through the process and provide a short list of qualified candidates to recommend to the Board to interview, and secondly for the Investment Committee to review the qualified applicants for the CIO position or Assistant Director positions and create a short list to recommend to the Board, also to engage the City Manager's Office, the Federated City Employees' Retirement System Board and the Ad Hoc Personnel Committee with the hiring process.

Approved. (M.S.C. – Kaldor/Santos, 6-0-3, Absent – Bill, Krytzer and Mason)

Alex Gurza, Deputy City Manager addressed the Board regarding the City Administration process of hiring a Director and the review process of making changes in the Ordinance.

- c. **Discussion and action on City Council proposed ordinance to amend Chapters 3.28 of Title 3 of the San Jose Municipal Code, the 1975 Federated Employees Retirement Plan, and 3.36 of Title 3, the 1961 Police and Fire Department Retirement Plan, to add Sections 3.28.115 and 3.36.325, respectively, regarding the role of the Boards of Administration in personnel matters.**

Ad Hoc Personnel Committee prepared a response letter to the City Council regarding the recommended changes to the Ordinance that was addressed at the Board meeting.

- d. **Discussion and action on revised Board communication plan regarding Measure B implementation.**
Deferred to the October Board meeting.

6.4 Audit Committee (Bill/Bacigalupi/Kaldor/Lanza) - Next Meeting: TBD

- a. **Report from the Chair of Audit Committee. Receive and file.**

Ms. Niebla reported that she has met with the Chairs of the Audit Committees and a preliminary agenda has been set and will be sent to the Committee members. A list of assignments has been assigned to each of the Audit Committee however assigned projects are still being prioritized.

Receive and file.

6.5 Ad Hoc Disability Committee (Santos/Lanza/Mason/Rounds)

– Last Meeting: August 10, 2012 - Next Meeting: TBD

- a. **Report from the Chair of Ad Hoc Disability Committee. Receive and file.**

Chair of the Ad Hoc Disability Committee, Trustee Santos updated the Board on the status of the Ad Hoc Disability Committee's projects: Review and prioritizing the Disability cases, extra help for Dr. Das, possible separate meetings for Disability cases.

Receive and file.

Items 6.5 (b&c) were heard simultaneously.

- b. **Discussion and action on recommendation to the Board for the Disability Committee to review of Disability applications and make recommendations to the Board.**

Ms. Johnson led the discussion regarding recommendations for the Disability Committee to review of Disability applications and responded to questions from the Board.

Extensive discussion continues.

A motion was made to have an additional Board meeting to help with the Disability workload, and an amendment to the motion whenever there are 5 or more cases a month to be heard that a separate Board meeting is scheduled.

Chair Kaldor directed the Ad Hoc Disability Committee to help prioritize disability cases and Dr. Das to provide an Aging Report to the Committee.

Approved. (M.S.C. – Kaldor/Santos, 5-0-4, Absent – Bill, Krytzer and Mason, Abstain - Bacigalupi)

c. Discussion and action if Special Meeting is needed.

Items 6.5(b&c) were heard simultaneously.

d. Discussion and action on the need for additional medical examiner staffing or funding.

Chair Kaldor led the discussion regarding the need for additional medical examiner staffing or funding.

Extensive discussion continued.

Alex Gurza, Deputy City Manager addressed the Board and stated that he will provide employment status of Dr. Das' nurse practitioner at the next Ad Hoc Disability Committee meeting.

A motion was made to authorize the Ad Hoc Disability Committee to be able to approve the cost for a temporary nurse practitioner for a period of one month, if it was possible to arrange it.

Approved. (M.S.C. – Kaldor/Lanza, 6-0-3, Absent – Bill, Krytzer and Mason)

7. CONSENT CALENDAR (Items 7.1 through 7.5)

A motion was made to approve the Consent Calendar, excluding Item 7.4(g).

Approved. (M.S.C. – Santos/Bacigalupi, 6-0-3, Absent – Bill, Krytzer and Mason)

Item 7.4(f) was pulled, as noted on Orders of the Day.

Item 7.4(g), pulled, changed year to 2011.

Approved. (M.S.C. – Bacigalupi/Kaldor, 6-0-3, Absent – Bill, Krytzer and Mason)

7.1 Approval of Minutes

- a. Monthly Board meeting held on August 2, 2012.
- b. Board Special Meeting held on July 19, 2012.

7.2 Approval of Travel and Attendance for Conferences and Due Diligence

- a. Pete Constant - IFEBP, 58th Annual Employee Benefits Conference, San Diego Convention Center, San Diego, CA – November 11-14, 2012.
- b. Heidi Poon - Albourne Hedge Fund Conference, Chicago, IL – October 2-3, 2012.
- AAAIM, Global Opportunities: East meets West, JW Marriott Los Angeles LA Live, Los Angeles, CA – October 30-31, 2012.
- c. James Mason - NCPERS, 2012 Public Safety Employees Pension & Benefits Conference, Omni Royal Orleans Hotel, New Orleans, LA – October 7-10, 2012.

- d. Ron Kumar - PREA Investor Real Estate Conference, The Beverly Hilton, Beverly Hills, CA – October 22-24, 2012.

7.3 Return of Contributions - None

- a. Voluntary
- b. Involuntary

7.4 Communication/Information

- a. The Cortex Report: Research Papers and Articles
- b. Benefits Review Forum Report, July 2012.
- c. Memo from Alex Gurza, Deputy City Manager regarding Correction to Retiree Healthcare Memo, dated July 17, 2012.
- d. California State Auditor's report and related responses, dated August 2012, Report 2012-106.
- e. Notice of 2012 Police Retiree Election.
- f. Memo from Debra Figone, City Manager regarding Acting Director of Retirement Services Appointment, dated August 28, 2012. **Pulled 7.4(f), as noted in Orders of the Day**
- g. Educational Travel Reports:
 - Pension Bridge, 4 Private Equity Exclusive, Chicago, IL – July 22-24, 2012 – by Damon Krytzer.
 - IFEBP, Trustees and Administrators Institute–New Trustees, Las Vegas, NV– June 13-15, 2012 – by Vincent Sunzeri.

7.5 Pending Projects

8. EDUCATION & TRAINING - Note and File

8.1 Educational Programs and Courses

8.2 Conferences and Seminars

8.3 CalAPRS' Training

- Trustees' Round Table, Los Angeles Marriott Burbank Airport, Burbank, CA – Friday, October 19, 2012.
- Course in Retirement Disability Administration, Los Angeles Marriott Burbank Airport, Burbank, CA – Thursday, September 13, 2012.

• **PROPOSED AGENDA ITEMS – None**

• **PUBLIC COMMENTS - None**

• **ADJOURNMENT**

Meeting adjourned at 4:55 p.m.



SEAN KALDOR, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

D. Busse

DONNA BUSSE
ACTING DIRECTOR, RETIREMENT SERVICES