

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**January 3, 2008**

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:36 a.m., on Thursday, January 3, 2008, in regular session in the Department of Retirement Services' Conference Room, 1737 North First Street, Suite 600, San José, California.

### ROLL CALL

#### Present:

**MARK J. SKEEN**  
**KEN HEREDIA**  
**BRET MUNCY**  
**BILL BRILL**  
**FORREST WILLIAMS**  
**DAVE CORTESE**

**CHAIR**  
**VICE CHAIR**  
**Trustee**  
**Trustee**  
**Trustee (Exited 9:10 am)**  
**Trustee (Arrived 8:43 am)**

### NOT PRESENT:

**SCOTT JOHNSON**

**Trustee (Excused Absence)**

### ALSO PRESENT:

<b>Russell Crosby</b>	<b>-SECRETARY</b>	Tom Webster	-Staff
Susan Devencenzi	-City Attorney	Debbi Warkentin	-Staff
Russell Richeda	-Saltzman & Johnson	Tamasha Johnson	-Staff
Amanda Ramos	-Staff	Jim Jeffers	-Attorney
Judy Powell	-Staff	Donna Busse	-Staff
Ron Kumar	-Staff	Rhonda Snyder	-Staff
Susan Perriera	-Staff	Mike Rosingana	-Retirees Assoc
Rajiv Das	-Board Doctor	Marty Hogan	-POA
Carol Bermillo	-Staff	Bruce DeMers	-PF Retirees
Udaya Rajbhandari	-Staff	Roger Pickler	-Staff
Randy Sekany	-Local 230	Eric Ramones	-SJFD
Andy Yeung	The Segal Company	Paul Angelo	The Segal Company
George Vega	-SJFD	Chris Platten	-L230 Attorney
Karin Carmichael	-Staff	Mike Moffett	-Fire retiree
Colleen Hy	-Staff	John Tennant	-SJPOA Attorney
Allen Dye	-SJPD	Aracely Rodriguez	-OER
Bob Cocilova	-Fire retiree	Bill Thomas	-SJREA
Thomas Boyle	-Attorney	Brian Long	-SJPD
Jim O'Keefe	-SJPD	Sandra Holloway	-SJPD
Lt. Dale Morgan	-SJPD	Sam Swift	-Attorney

## REGULAR SESSION

### ORDERS OF THE DAY

**Chair Skeen** called the meeting to order at 8:36 a.m. He announced that Item 2c had been deferred to February at the request of the applicant's attorney.

### RETIREMENTS

Service

- a. **Raymond C. Barrera**, Sergeant, Police Department. Request for Service Retirement effective January 26, 2008; 28.29 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2. (Absent: Johnson, Cortese).

- b. **Ernest Carter**, Captain, Police Department. Request for Service Retirement effective January 12, 2008; 30.35 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- c. **Scott A. Cornfield**, Lieutenant, Police Department. Request for Service Retirement effective January 27, 2008; 27.34 years of service.

(M.S.C. Heredia/Muncy) to approve application. Motion carried 5-0-2.

- d. **Paul G. Dini**, Police Officer, Police Department. Request for Service Retirement effective January 12, 2008; 32.36 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- e. **Kenneth Ferguson, Jr.**, Deputy Chief of Police, Police Department. Request for Service Retirement effective January 12, 2008.

The Chair stated for the record Deputy Chief Ferguson has 31.01 years of service.

(M.S.C. Heredia/Muncy) to approve application. Motion carried 5-0-2.

- f. **Felipe B. Flores**, Sergeant, Police Department. Request for Service Retirement effective January 12, 2008; 25.93 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- g. **Jorge I. Gonzalez**, Sergeant, Police Department. Request for Service Retirement effective January 20, 2008; 28.50 years of service. **(SCD Pending)**

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- h. **Ronald L. Helder**, Sergeant, Police Department. Request for Service Retirement effective January 26, 2008; 29.00 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- i. **Jon Johnson**, Sergeant, Police Department. Request for Service Retirement effective January 12, 2008; 26.74 years of service. **(SCD Pending)**

(M.S.C. Heredia/Muncy) to approve application. Motion carried 5-0-2.

- j. **Brian A. Long**, Officer, Police Department. Request for Service Retirement effective January 12, 2008; 29.80 years of service. **(SCD Pending)**.

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

- k. **Romulo P. Macias**, Officer, Police Department. Request for Service Retirement effective January 26, 2008; 27.23 years of service.

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

- l. **Edward C. Marini**, Officer, Police Department. Request for Service Retirement effective January 12, 2008; 28.77 years of service (**SCD Pending**).

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

- m. **José R. Montes**, Sergeant, Police Department. Request for Service Retirement effective January 12, 2008; 28.55 years of service.

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

- n. **Leslie R Nunes**, Lieutenant, Police Department. Request for Service Retirement effective January 10, 2008; 29.27 years of service.

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

- o. **Domingo Rico**, Officer, Police Department. Request for Service Retirement effective January 12, 2008; 27.58 years of service.

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

- p. **Michael W. Ross**, Lieutenant, Police Department. Request for Service Retirement effective January 26, 2008; 26.77 years of service.

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

- q. **Jess M. Sanchez**, Officer, Police Department. Request for Service Retirement effective January 26, 2008; 29.30 years of service.

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

- r. **Michael J. Sterner**, Captain, Police Department. Request for Service Retirement effective January 26, 2008; 31.08 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- s. **Ronald H. Thomassin**, Officer, Police Department. Request for Service Retirement effective January 26, 2008; 27.61 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- t. **Peggy Vallecilla**, Sergeant, Police Department. Request for a Service Retirement effective January 12, 2008; 24.42 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

- u. **Raymond L. Villarreal**, Officer, Police Department. Request for Service Retirement effective January 27, 2008; 28.60 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 5-0-2.

**Member Cortese arrived**

- v. **John D. Weidner, Jr.**, Sergeant, Police Department. Request for Service Retirement effective January 12, 2008; 25.26 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 6-0-1. (Absent: Johnson).

- w. **Edward Zarate**, Sergeant, Police Department. Request for Service Retirement effective January 12, 2008; 29.21 years of service.

(M.S.C. Muncy/Heredia) to approve application. Motion carried 6-0-1.

**Disabilities - None**

**2. Change in Status**

- a. **Pedro R. Aguilar, Jr., Retired Sergeant. Request for change to Service Connected Disability Retirement effective December 17, 2006; 28.19 years of service.**

**Sergeant Aguilar** was present and was represented by *Mr. Jeffers*.

For the record, the following medical reports have been received:

<u>Doctor's Name</u>	<u>Report Date</u>
Alfredo Fernandez	6/27/07
Robert Gamburd	10/27/06; 8/21/06; 7/21/06; 5/17/06; 2/6/06; 10/26/05; 7/8/05; 6/6/05; 6/10/96; 2/14/95; 12/6/94; 6/6/94
Lawrence Chan	8/9/06
John Smith	6/27/06; 5/17/06
Mark Culton	2/23/06
Andrew Durkin	7/20/05
Satish Sharma	6/1/05
Jonathan Ng	11/2/04; 10/27/04; 6/17/04
John O'Brien	5/14/04; 5/7/04; 5/6/04
Thomas Roberts	4/26/96
Glen O'Sullivan	10/21/94; 10/13/94
Charles Ho	7/27/94
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/20/07; 3/9/07

*Mr. Jeffers* described Sergeant Aguilar's reputation, career, and injuries he sustained.

*Sergeant Aguilar* described his medical issues and the difficulty he had in making the decision to retire.

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

**b. Ernest A. Hernandez, Retired Police Officer. Request for change to Service-Connected Disability Retirement effective August 25, 2007; 26.12 years of service.**

**Retired Police Officer Hernandez** was present and was represented by *Mr. Jeffers*.

For the record, the following medical reports have been received:

<u>Doctor's Name</u>	<u>Report Date</u>
Jason Lufshutz	11/2/07; 7/31/07 (3 rpts); 2/15/07; 9/18/06; 3/23/06
Donald Pang	7/30/07; 8/31/05
Donald Prolo	2/22/07; 1/25/06; 3/9/05 (2 rpts); 3/3/05; 1/18/05; 12/22/04; 10/5/04; 12/10/01
Arthur Holmboe	8/11/06; 7/25/05
Hamid Javaherian	7/18/06
Peter Fung	2/2/04
Edward Liu	12/22/04
Lawrence Shuer	6/1/04; 4/7/04; 5/15/02
Lawrence Chan	5/17/04
Susan Scholey	1/29/04
Maia Chakerian	12/11/01
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/15/07

*Mr. Jeffers* described Retired Police Officer Hernandez career history, and stated that the physicians agree that he is unfit to serve in a modified duty position.

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

**c. James B. Randall, Retired Fire Captain. Request for change to Service Connected Disability Retirement effective January 30, 2004; 30.31 years of service.**

**The Chair** stated this Item was deferred to February at the request of the applicant's attorney.

**Deferred Vested** - None

**DEATH NOTIFICATIONS** - None

**NEW BUSINESS**

**3. Approval to change retirement effective date of Louis Zapata from November 3, 2007 to December 15, 2007. (Retirement application approved at December Board Meeting).**

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

## **OLD BUSINESS / CONTINUED ITEMS**

### **4. Discussion and action on the Sunshine Reform Task Force recommendations.**

*Ms. Devencenzi* explained the Sunshine Reform Task Force's recommendation regarding posting agendas 10 days in advance and amending agendas after posting. During that 10 day period, items that are to be discussed require additional posting, but still need to meet the requirements of the Brown Act, which is 72 hours. Special meetings require 24 hours notice to all interested parties. The Council Rules Committee has requested additional input from the quasi-judicial bodies. In February, more recommendations will follow from SRTF.

*Mr. Richeda* stated that there is a proposal to extend the Brown Act requirement to 4 days for special meetings.

**Vice-Chair Heredia** expressed his objections to the Task Force's recommendations on agenda posting 10 days prior to a regularly scheduled meeting, and agenda posting 4 days prior for any special meetings. He stated that due to the nature of the Board's business these recommendations would cause the Board to have to call more special meetings, so he would like the Rules Committee to know that this restricts the Board too much. He further objects to the Task Force's recommendation that the Chair restrict the time for public testimony at a meeting, as he feels this should be determined by the Board.

**Member Brill** also expressed that the 10 day posting recommendation for regular meetings is overly restrictive, and he requested to know the procedure on how noticing is done.

*Ms. Devencenzi* clarified that for posting of the agendas, the rule is that there must be a description on the agenda and it should be posted within 72 hours prior to a meeting – per Brown Act – in a place that is accessible by the public. Typically, the Boards' agendas are posted at City Hall. Staff is generally responsible to construct the agenda, and then staff sends it to the City Clerk's office to be posted. The Rules Committee is requesting that the Boards provide them with any exceptions to the posting requirements.

#### **Member Williams exited**

**Member Cortese** stated that it is important to understand the Rules Committee is suggesting that everyone have the same set of rules for the public to access information. The first thing he thinks should be done is to determine what information is public. Also, under Orders of the Day last minute items could be introduced as a sort of clearing house. Most of the members of the Rules Committee do not understand how the Boards function. The Rules Committee is looking for more detail from the Boards on legal and administrative challenges above and beyond what has already been submitted.

(M.S.C. Heredia/Brill) to approve staff and legal counsel to work together in creating a matrix or memo and submit to the Rules Committee, then provide the Board with a copy. Motion carried 5-0-2. (Absent: Johnson, Williams)

### **5. Acceptance of City Policy on each City Department reimbursing new Director for relocation expenses.**

**Vice-Chair Heredia** recapped the sequence of events that led to this discussion. As a fiduciary, he feels that the Board needs to ensure any expenses are documented and requested before expenditure by the Plan rather than after the fact.

**The Secretary** suggested a very detailed administrative agreement be developed by legal counsel and staff to cover recruitments, relocation costs, and other special expenditures not covered under current policies.

(M.S.C. Heredia/Brill) to approve payment of director's relocation expenses and development of a policy by staff and legal counsel. Motion carried 5-0-2.

## **6. Update on status of ordinances required due to Firefighter Arbitration Award.**

**Chair Skeen** expressed concerns about firefighters eligible to retire and waiting for work records to be processed.

*Mr. Webster* said that processes are in place, however staff is awaiting the Municipal Code change since they can only administer the Plan as it is written. Staff has received the retro-pay information from the City and most of it has been posted already.

*Ms. Devencenzi* responded that the Board approved two ordinances, however she needs to still identify which sections need to be amended. She will be verifying some questions she has, and how to draft around the Service-Connected Disability benefit. The last two pieces – survivors and benefit formula – were not clearly addressed in the arbitrator's award, so those are the questions she is resolving. Last month the Board saw three items on the agenda that were directed to the actuary. In February, there will be ordinances coming to the Board for review, and the last two items in the arbitrator's award will be on the agenda with direction to the actuary. So, the actuaries will cost the benefits and bring that part back to the Board.

**Vice-Chair Heredia** requested the information be audited since staff has had to verify information being sent by the City for inaccuracies. Also, to include an audit of the military leave data.

**The Secretary** suggested that Macias & Gini could begin an audit on our end, and then observe that in many Trust Funds the employer's side is also audited.

(M.S.C. Heredia/Muncy) to direct staff to obtain cost and scope of an audit from Macias & Gini to bring back to the Board. Motion carried 5-0-2.

## **STANDING COMMITTEE REPORTS/RECOMMENDATIONS**

**Investment Committee (Skeen, Heredia, Muncy) – Next meeting 1/17/08**

**Real Estate Committee (Skeen, Heredia, Muncy) – Next meeting 1/17/08**

**Investment Committee of the Whole (Full Board)**

## **8. Oral Update on Solutions to Retiree Health Care Committee**

**The Chair** stated several Tuesday meetings were scheduled in January (and those will remain), however in February meetings will not be scheduled for a Tuesday since that posed problems for certain members to attend.

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

## **APPROVAL OF MINUTES**

### **9. Monthly Board Meeting held 6 December 2007**

This item was deferred to the February meeting.

## **PENDING ACTION LIST**

### **10. Updated list as of 19 December 2007**

**Vice-Chair Heredia** asked who was handling Item 5, the Policy on Procurement of Legal Services. He requested this item because at least two instances staff received direction on some matter from the City Attorney's office that was inconsistent with the Board's discretion, so he feels that outside legal counsel should be used and requested a policy stating the process to obtain legal advice.

*Ms. Devencenzi* suggested staff initiate the first draft since she would state the Trustees should obtain advice from the City Attorney's office as contained in the Municipal Code and Mr. Richeda has a financial interest in the plan as outside legal counsel.

**The Secretary** stated updates regarding the Deputy Director recruitment and operational audit will be available soon.

(M.S.C. Heredia/Muncy) to approve. Motion carried 5-0-2.

## **BENEFITS REVIEW**

### **11. Summary of meeting held December 2007.**

**Vice-Chair Heredia** requested an opinion regarding the health-in-lieu option which is not being offered for retirees from Ms. Devencenzi, and send it to the BRF, in addition provide a copy to the Board.

(M.S.C. Heredia/Muncy) to approve. Motion carried 5-0-2.

## **CONSENT CALENDAR (Items 12-14)**

(M.S.C. Heredia/Muncy) to approve. Motion carried 5-0-2.

## **PROPOSED AGENDA ITEMS**

1. Discussion from actuary regarding the Firefighter benefits
2. Discussion and possible action on special audit on contributions for retro-pay and military leave data
3. Trustee reimbursements timeline

### **(Out of Order)**

### **7. Approval of draft ordinance providing for an alternate allocation of costs of providing medical insurance coverage for Calendar Year 2008.**

*Ms. Devencenzi* reported this item will be on the City Council agenda next week, and if approved the ordinance would be sent out immediately. The Board has right to review the ordinance prior to City Council's approval and you have 60 days, however, it would not be effective until the end of February in all likelihood.

**The Secretary** stated there needs to be a discussion to direct staff by the Board to implement these decisions.

## **PUBLIC COMMENTS**

## **EDUCATION & TRAINING**



## **ADJOURNMENT**

There being no further business, the **Chair** adjourned the meeting at 10:13 am.

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**MARK SKEEN, CHAIR**  
**BOARD OF ADMINISTRATION**

**ATTEST:**

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