

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

April 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, April 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
FORREST WILLIAMS
DAVE CORTESE
SCOTT JOHNSON

CHAIR
VICE CHAIR
Trustee
Trustee (Exited 9:23 am)
Trustee (Arrived 8:54 am)
Trustee

NOT PRESENT:

BILL BRILL

Trustee (Excused)

ALSO PRESENT:

Russell Crosby	-SECRETARY	Tom Webster	-Staff
Mollie Dent	-City Attorney Office	Debbi Warkentin	-Staff
Russell Richeda	-Saltzman & Johnson	Tamasha Johnson	-Staff
Amanda Ramos	-Staff	Donna Busse	-Staff
Ron Kumar	-Staff	Rhonda Snyder	-Staff
Susan Perriera	-Staff	Mike Rosingana	-Retirees Assoc
Rajiv Das	-Board Doctor	Carol Bermillo	-Staff
Bruce DeMers	-PF Retirees	Jeanne Groen	-HR
Udaya Rajbhandari	-Staff	Roger Pickler	-Staff
Dennis Murphy	-The Segal Company	Maria Loera	-Staff
Andy Yeung	-The Segal Company	Corina Fernandez	-Staff
Karin Carmichael	-Staff	Bill Thomas	-FCERS Retiree Assoc
Aracely Rodriguez	-OER	Lt. John Carr	-SJPD
Jim Jeffers	-Attorney	Veronica Niebla	-Staff
Sandra Holloway	-SJPD	Paul Angelo	-The Segal Company
Chris Shippey	-CMO	Raymond Pena, Jr.	-SJPD Retiree
Mark Danaj	-HR		

REGULAR SESSION

ORDERS OF THE DAY

Chair Skeen called the meeting to order at 8:36 a.m.

RETIREMENTS

1. Service

- a. **Jaime R. Zarate, Sergeant, Police Department. Request for Service Retirement effective 22 March 2008; 27.49 years of service**

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

Disabilities - None

2. Change in Status

Raymond Pena, Jr., Retired Police Officer. Request for change to a Service-Connected Disability Retirement effective 14 July 2007; 25.02 years of service.

Retired Police Officer Pena, Jr. 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>
Jeffrey Coe	10/5/07 (2 rpts); 1/29/03
Ronald Joseph	9/26/07 (2 rpts); 8/2/07; 7/2/07; 5/10/06; 9/10/03; 4/9/02; 2/20/02
Hamdan Fayad, PA-C	10/19/04; 4/10/06
Daniel Castro, PA-C	4/28/04; 6/23/03
Mark Larsen	3/3/03
Brian Kaevelas	7/17/02
Walter Siberman	5/22/00
Robert Licgthenstien	11/29/95; 7/26/95; 3/1/95; 1/30/95; 1/6/95
David Ziegler	10/30/95
Michael McManus	12/21/94; 9/26/94; 9/26/94 (2 rpts)
Raymond Pena	9/26/94
Michael Maiman	9/24/94
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	3/14/08

Dr. Das stated Mr. Pena has permanent medical restrictions. He was last seen in April 2006 and the key issue is that there is additional treatment to be done, however it will not improve his condition.

Mr. Jeffers briefly described the history of injuries sustained by Mr. Pena.

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

Deferred Vested

3a. Kenneth W. Barker, Former Police Officer. Request for Deferred Vested Benefits effective 15 April 2008; 14.23 years of service.

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

DEATH NOTIFICATIONS

4. Notification of the death of Kenneth Herrmann, Retired Lieutenant; retired 1/16/93, died 2/18/08 and notification of survivorship to Erma Herrmann, spouse.

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

5. Notification of the death of Eugene Stenzel, Retired Firefighter; retired 8/1/70, died 1/28/08 and notification of survivorship benefits to Joan Stenzel, spouse.

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

NEW BUSINESS

6. **Adoption of the language clarification in the Board's Procedure for Education and Travel Guidelines regarding the use of CONUS when claiming per diem allowance.**

Chair Skeen stated this item is just to clarify action that the Board took in 2006 to change the policy.

Mr. Webster stated the policy has been administered according to the action taken at the 2006 Board meeting. Staff wants to make it clear that the Board does not use the CONUS rates which are 75% for the first and last days, and the Board instead uses a per diem amount of 100% for all days of travel. There may be tax consequences.

Member Williams stated the Board should leave the existing policy as it is with this action on clarifying that it is 100% for all days of travel. Then the Board can revisit the travel policy perhaps next meeting to change it.

Member Johnson stated CONUS rates are set by the GSA. He explained that 100% means the 24 hours before someone travels. The 75% per diem still accounts for the time traveling. It will be necessary to look at the way to capture the 25% differential for tax purposes.

(M.S.C. Muncy/Heredia) to clarify existing policy per diem as 100% and to bring the travel policy back for review in May. Motion carried 5-0-2.

7. **Request for Board direction regarding retaining legal counsel for investment matters.**

The Secretary stated staff will prepare an RFP, which will be reviewed by the City Attorney's Office, and he will also assist in the firm selection process.

Vice-Chair Heredia directed the Secretary to proceed with that process.

8. **Action on City's request to have the Director of Retirement Services work with the City Administration's team on a plan for potential pre-payment of the employer's annual retirement contribution to the P&F Plan and approval for Board's actuary to provide an analysis for a cost not to exceed \$2,500 to the Board and the team of the City's contribution rate if the City pre-pays the annual retirement contribution.**

Member Johnson recused himself and presented the item as the City's Director of Finance. He stated this would be an opportunity for the Plan to acquire additional money to invest sooner. There is also a proportionate advantage to the City for paying the ARC in advance around July. PERS provides such a discount. To evaluate the benefit of paying the ARC it would be necessary for the Plan's actuary to do an analysis to determine the effect such a prepayment would have. That would determine the discount rate. A team is being assembled within the City, and the request now is that the Secretary direct that this be brought back to the Boards in June. The request before the Board is to accept the prepayment analysis.

Member Heredia asked who would pay the \$2500 fee proposed to provide the studies and how the actuaries became involved with this work.

Member Johnson responded the City would be willing to reimburse the Plan for the cost associated with the studies, as they believe the benefits outweigh the costs. The actuaries have done no work on this project; he

spoke with the Secretary which is why he is discussing the item today to request permission for the actuary to work on this in conjunction with the City.

Chair Skeen asked how the City and the Plan's actuary can conduct meetings while still maintaining the firewall between the two.

The Secretary stated that is why he would be involved in ensuring the actuary maintains current methods, but that would be part of the trustee's evaluation. He believes that the level of involvement by staff creates an awareness of the trustee concerns.

Mr. Richeda stated the issue of preparing the necessary ordinances should be considered to insure an effective date of 7/1/2008.

Member Williams exited

Mr. Johnson stated the Board should consider adopting a policy allowing prepayment at the option of the City depending upon an analysis of the City's cash flow each year.

Member Heredia suggested the Board's legal counsel be a part of the City's team.

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

8a. Action on the City's request to have Segal, Board actuary, provide additional analysis of various GASB 43/45 funding phase-in periods.

Vice-Chair Heredia stated this item was being handled at the Joint Boards Solutions to Retiree Healthcare Committee for the actuaries to explore various funding scenarios.

Mr. Danaj stated he made a request at the Committee level with the idea of each Board approving the item once they determine the cost of the analysis.

(M.S.C. Heredia/Muncy) to approve actuaries proceeding with work up to budget limit. Motion carried 5-0-2.

9. Action on the attorney assigned by the City Attorney's Office to replace Susan Devencenzi and request to review attorney's experience and qualifications.

Chair Skeen requested Ms. Dent describe her experience and background.

Ms. Dent stated she had over 15 years of Brown Act experience; over 20 years experience dealing with the Public Record Act; limited knowledge in the California Pension Protection Act; and some familiarity with the Vested Rights Doctrine. She has read a majority of the legal opinions pertaining to current matters written by Ms. Devencenzi, and she previously practiced family law so she is familiar with domestic relations. She further noted that she is only temporarily assigned to serve the Board.

10. Request for Board direction concerning upcoming retreat with City Administration.

The Secretary stated a meeting took place last week and it was decided that there would be a retreat to discuss issues between both Boards and the City Administration.

Vice-Chair Heredia stated the meeting went very well. He expressed that the most important issue is that of the Director possibly receiving conflicting directives. The City Attorney and members of both Boards will be able to voice and hear all of the concerns. He suggested that the Boards appoint individuals to represent each respective Board in the hopes to keep membership down so the details of the discussion are not lost. He also stated that he would like to be at this retreat.

(M.S.C. Heredia/Cortese) to approve setting up a retreat with City Administration and authorizing Chair to name three members to the committee. Motion carried 5-0-2.

11. Action related to Segal's letter regarding extension of the funding period to 11 years for retiree medical and dental.

Mr. Angelo stated he provided a letter that gave an idea of the financial impact of leaving the contributions where they are, and observed that using a funding horizon of 11 years instead of 10 years produces roughly the same results.

Vice-Chair Heredia stated the point was to fund more of the benefits so at a certain point we will have accumulated enough assets that we can put less in but get more out. He suggested maintaining the previous year's (6/2005) rate of 3.58%.

OLD BUSINESS / CONTINUED ITEMS

12. Continue discussion and approval of The Segal Company's actuarial study for the two-year period ending 30 June 2007 and establishment of rates of contributions to be effective 1 July 2008

Vice-Chair Heredia stated that while there is still no agreement between the City and Local 230, he does not see any obstacle on the police side and the Board should adopt the contribution rates for them. He suggested keeping the medical rate the same at 3.58% as the current rate. He asked what the contribution rates would be if the Board wanted to approve them for police.

Mr. Angelo stated the police pension rate would be 21.61% and the police medical rate would be 4.19% for a total City contribution of 25.80%. The employee rate of contribution for police would be 8.18% for the pension and 3.78% for the medical for a total employee contribution of 11.96%.

(M.S.C. Heredia/Muncy) to recommend staff and legal counsel work together and send a letter to the stakeholders explaining the intent of the action the Board would like to take and defer the item to next month. Motion carried 5-0-2.

13. Oral update on City's audit of Retirement Services travel and the Public Records Act request on travel expenditures.

The Secretary stated the audit is now underway, staff has provided all the requested documentation to the auditors, and several interviews have been conducted. It is going well and there appear to be no outstanding issues. Regarding the Public Records Act request from the Mercury News, staff has provided a spreadsheet with the requested data and if there are receipts or documents they wish to review they may come to the office to do so. Any personal data that may have been submitted will be redacted from the receipts before viewing.

14. Oral update on the status of the Sunshine Reform Task Force.

Ms. Lisa Herrick presented an update on the Sunshine Reform Task Force recommendations. She stated it has now been a year since she came to the Board and a final report was issued on May 23, 2007 regarding public meetings. The final recommendations for closed sessions and public information will be presented to Council next Wednesday for adoption in May. All proposed recommendations will be implemented next fiscal year. The recommendations will be implemented most likely through an amendment to the Conduct of Council Resolution; ideally an Open Government Ordinance would be done to make it part of the Code. The Rules

Committee recommended that agendas be posted 7 days in advance with the ability to post an amendment in accordance with the Brown Act requirement of 72 hours. Special meeting posting requirements are to be consistent with the Brown Act. Staff reports or supplemental reports will need to be posted 7 days in advance, if available. Informational memorandums should be posted as soon as possible but that will remain at the Board's discretion.

Member Cortese exited

Ms. Herrick continued that for audio recordings the recommendation is archiving for two years. Action minutes are to be posted within 10 days following a meeting.

The Secretary clarified that the Boards will have one set of minutes, so they can be action minutes only.

Ms. Herrick stated the Council is limiting the types of topics that may be discussed in closed session. This is an item that may be discussed at a retreat or other future time. The Retirement Board adjourns into closed session mainly for real estate transactions or litigation, so the Board would report out the conclusion or decision made. The Council agreed that if a decision is made regarding litigation then it is subject to open session approval (which is taking the vote again in the public meeting). There also needs to be some open session approval on real estate transactions. *Ms. Herrick* also discussed proposed rules on reports out of closed sessions regarding litigation matters. Regarding audio recording of closed sessions, there is still some discussion pending. Another proposal is to make audio recordings of closed sessions available to be reviewed for possible Brown Act violations. If disclosing of closed session matters is to occur, the City Attorney's Office recommends the use of transcripts for accuracy.

**15. Approval of Revised Policy 220.3-P&F on Procurement of Legal Services.
(Deferred from March)**

(M.S.C. Heredia/Muncy) to defer the item to June. Motion carried 4-0-3. (Absent: Williams, Brill, Cortese)

16. Discussion and possible action on the City's Finance Department's Travel Reimbursement Timeline. (Defer to May)

(M.S.C. Heredia/Muncy) to defer the item. Motion carried 4-0-3.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS (17-22)

Investment Committee (Skeen, Heredia, Muncy)

- a. Summary of meeting held 25 February 2008
- b. Summary of meeting held 19 March 2008
 - 1. Approval to terminate Mercer Investment Consulting and authorization for Secretary to negotiate and execute an agreement with NEPC, LLC for investment consulting services.

Real Estate Committee (Skeen, Heredia, Muncy)

- a. Summary of special meeting held 25 February 2008

Investment Committee of the Whole (Full Board)

- a. Summary of meeting held 25 February 2008

Joint Solutions to Retiree Healthcare Committee

- a. Synopsis of meeting held 20 February 2008
- b. Synopsis of meeting held 22 February 2008

23. APPROVAL OF MINUTES

Monthly Board Meeting held 6 March 2008

(M.S.C. Johnson/Muncy) to approve. Motion carried 4-0-3.

PENDING ACTION LIST

24. Updated list as of 26 March 2008

(M.S.C. Johnson/Muncy) to approve. Motion carried 4-0-3.

BENEFITS REVIEW

25. Summary of Meeting held February 2008

Vice-Chair Heredia asked about the retiree-in-lieu of request.

Mr. Pickler stated the Office of Employee Relations indicated that a health plan waiver would possibly create the same benefit as requested; the problem is just packaging the deal differently.

CONSENT CALENDAR (Items 26-28)

(M.S.C. Johnson/Muncy) to approve. Motion carried 4-0-3.

PROPOSED AGENDA ITEMS

1. **Member Muncy** requested the Finance Department provide a memorandum outlining the timeline for vacation and comp time payouts for retired police officers.

PUBLIC COMMENTS

EDUCATION & TRAINING

ADJOURNMENT

There being no further business, the **Chair** adjourned the meeting at 10:55 am.

MARK SKEEN, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

RUSSELL U. CROSBY, SECRETARY
BOARD OF ADMINISTRATION