

POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

August 5, 2010

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:40 a.m. on Thursday, August 5, 2010, in regular session at City Hall in the Council Chambers, 200 East Santa Clara Street, San José, California 95113.

ROLL CALL

PRESENT:

David Bacigalupi	Chair
Conrad Taylor	Vice Chair
Rose Herrera	Trustee – departed at 11:00 A.M.
Sam Liccardo	Trustee
Scott Johnson	Trustee
Sean Kaldor	Trustee

ALSO PRESENT:

Russell U. Crosby	-SECRETARY	Ceara O’Fallon	-Staff
Donna Busse	-Staff	Veronica Niebla	-Staff
Mollie Dent	-City Attorney Office	Ron Kumar	-Staff
Russ Richeda	-Attorney	Ryan Jusko	-Staff
Thomas J. Boyle	-Attorney	Mike Moehle	-Staff
Lt. Mark Bustillos	-SJPD	Ali Amiry	-Staff
Sandra Holloway	-SJPD	Charnel Benner	-Staff
Ron D’Acchioli	-Fire	Linda Charfauros	-Fire
Karin Carmichael	-Staff	Jesselle Holcomb	-Staff
Sam Swift	-Attorney	Rajiv Das	-Board Doctor
Philip Demers	-Fire	Gordon R. Snyder	-Fire
John P. Martinez	-Fire	Samuel Garcia	-Fire
Martin Hoenisch	-Fire	Bruce DeMers	-Retiree P&F
Carol Bermillo	-Staff	Amanda Ramos	-Staff
Mike Moffett	-Retiree Fire	Michael Fields	-Fire
Jeanne Groen	-HR	Roger Pickler	-Staff
Aracely Rodriguez	-OER	Darryl Von Raesfeld	-Retired Fire Chief
Antonio Guerra	-Mayor’s Office	Linda Hurley	-Macias Gini & O’Connell
Annie Louie	-Macias Gini & O’Connell	John P. Quayle	-SJPD

REGULAR SESSION

Chair Bacigalupi called the meeting to order at 8:40 a.m.

ORDERS OF THE DAY

Chair Bacigalupi noted that the Civil Service Commission Representative position is vacant.

Chair Bacigalupi made the following changes to the agenda:

Items 3i and 3j are deferred at the attorney’s request.

Item 1e has a disability retirement application pending.

Item 25 the Investment Committee alternate should be Sean Kaldor.

RETIREMENTS

1. Service

- a. **Mark R. Bennett**, Police Sergeant, Police Department, effective July 31, 2010; 27.09 years of service. (M.S.C. Taylor/Liccardo) Motion to approve. 6-0-0
- b. **Mario Busalacchi**, Fire Captain, Fire Department, effective June 26, 2010; 30.21 years of service. (M.S.C. Herrera/Liccardo) Motion to approve. 6-0-0
- c. **George A. Graham**, Police Lieutenant, Police Department, effective September 4, 2010; 25.01 years of service. (With reciprocity) (M.S.C. Taylor/Herrera) Motion to approve. 6-0-0
- d. **Anthony Guinnane**, Fire Captain, Fire Department, effective July 24, 2010; 20.42 years of service. (M.S.C. Kaldor/Herrera) Motion to approve. 6-0-0
- e. **Jeff Kozlowski**, Police Sergeant, Police Department, effective August 21, 2010; 25.01 years of service. (M.S.C. Liccardo/Herrera) Motion to approve. 6-0-0
- f. **Donald J. Moore**, Police Sergeant, Police Department, effective June 26, 2010; 28.31 years of service. (M.S.C. Herrera/Liccardo) Motion to approve. 6-0-0
- g. **Mikael Niehoff**, Police Sergeant, Police Department, effective August 21, 2010; 25.01 years of service. (M.S.C. Liccardo/Herrera) Motion to approve. 6-0-0
- h. **Peter C. Scanlan**, Police Sergeant, Police Department, effective September 18, 2010; 28.58 years of service. (M.S.C. Herrera/Liccardo) Motion to approve. 6-0-0

2. Disabilities – NONE

3. Change in Status

- a. **Philip Demers**, Retired Fire Captain, Fire Department. Request for change in status to Service-Connected Disability Retirement effective June 27, 2009; 31.57 years of service. Mr. Demers was present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR’S NAME	DATED
1. PATRICK MCCREESH, M.D.	1/23/10 (X6), 2/26/09, 2/23/09, 10/1/08, 5/7/08, 3/3/08, 12/20/07, 11/5/07, 7/23/07, 10/31/06,
2. EDWARD DAMORE, M.D.	1/6/10 (X4), 8/25/09, 12/17/08, 9/9/08,
3. EUGENE DELLAMAGGIORE, M.D.	1/4/10 (X2), 7/17/09, 11/24/08, 4/16/08, 2/25/08
4. MARK CULTON, M.D.	6/4/09, 5/11/09, 11/17/06,
5. JUDITH PETO, P.A.	5/11/09
6. WILLIAM MARTIN, M.D.	1/21/09
7. KENNETH BLUMFIELD, M.D.	1/9/09
8. LAWRENCE CHAN, M.D.	11/17/08, 1/28/08
9. MURRAY SOLOMON, M.D.	3/27/08
10. DAID KRAMER, M.D.	2/8/08,
11. HARJIT SEKHON, M.D.	7/23/07
12. WILLIAM SOULE, M.D.	11/6/06
13. PAUL LIENHART, D.C.	6/3/06, 1/29/97, 10/10/90
14. MICHAEL NEWMAN, D.C.	3/6/00
15. JEFFREY SAAL, M.D.	1/29/97

MEDICAL REPORT FROM BOARD’S DIRECTOR	DATED
RAJIV DAS, M.D.	7/13/10

(M.S.C. Kaldor/Taylor) Motion to approve. 5-1-0 (Liccardo – No)

- b. **Michael Fields**, Retired Fire Engineer, Fire Department. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 27.41 years of service. Mr. Fields was present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR’S NAME	DATED
1. PATRICK MCCREESH, M.D.	1/25/10 (X2), 8/30/09 (X2), 9/19/09 (X4), 8/28/08, 12/3/07, 6/6/07, 7/27/06, 10/12/05, 10/4/04
2. JOHN COLMAN, M.D.	12/11/08
3. MARK CULTON, M.D.	11/20/08, 12/10/04
4. LAWRENCE CHAN, M.D.	10/17/08
5. R. WONG, M.D.	6/5/07
6. JOHN RENNICK, M.D.	4/13/06
7. SUSAN MACLEAN, M.D.	6/9/05
8. DAVID GILKEY, D.C.	7/29/93
9. G. STEIN, M.D.	9/16/90

MEDICAL REPORT FROM BOARD’S DIRECTOR	DATED
1. RAJIV DAS, M.D.	7/14/10

(M.S.C. Taylor/Herrera) Motion to approve. 6-0-0

- c. **Samuel Garcia**, Retired Fire Engineer, Fire Department. Request for change in status to Service-Connected Disability Retirement effective July 12, 2008; 32.07 years of service. Mr. Garcia was present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR’S NAME	DATED
1. EUGENE DELLAMAGGIORE, M.D.	2/9/10 (X8), 6/3/09, 5/6/09, 7/11/08, 6/10/08, 4/3/08, 7/26/07, 9/11/06, 8/14/06, 4/10/06
2. PATRICK MCCREESH, M.D.	8/11/09 (X4), 9/7/09 (X4), 8/25/09, 8/7/09, 4/28/08, 7/2/078/21/06, 4/27/06, 1/16/06
3. MARK CULTON, M.D.	3/18/09, 2/25/09, 3/10/08, 8/4/06, 2/23/06 (X2), 10/15/01
4. MURRAY SOLOMON, M.D.	6/17/08, 8/30/06
5. LAWRENCE CHAN, M.D.	5/8/08
6. DAVID KRAMER, M.D.	9/6/07
7. CHARLES BORGIA, M.D.	1/15/02, 10/12/01, 6/15/95, 6/2/94, 1/18/94, 6/3/93, 6/19/92, 3/6/92, 6/27/91, 8/13/85, 6/20/85
8. JESSE KAHN, M.D.	9/24/01
9. ILLEGIBLE NAME ON REPORT	DATED: 9/24/01
10. ROBERT BURNS, M.D.	1/27/94
11. WILLIAM MALONEY III, M.D.	8/20/92
12. DOUGLAS MARSHALL, M.D.	6/11/92
13. JOHN CRANSTON, M.D.	7/2/86

MEDICAL REPORT FROM BOARD’S DIRECTOR	DATED
RAJIV DAS, M.D.	7/11/10

(M.S.C. Liccardo/Taylor) Motion to approve. 6-0-0

- d. **Martin Hoenisch**, Retired Fire Captain, Fire Department. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 25.64 years of service. Mr. Hoenisch was present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR’S NAME	DATED
PATRICK MC CREESH, M.D.	03/08/2010; 02/26/2010 (2 RPTS); 11/14/2009 (2 RPTS); 09/03/2009 (8 RPTS); 08/28/2006 (2 RPTS); 09/01/1999 (2 RPTS)
1. MICHAEL RIES, M.D.	04/09/2009; 06/14/2007; 01/09/2007; 11/21/2006
2. MULTIPLE PROVIDERS	03/12/2009
3. RICHARD BRIGGS, M.D.	03/12/2009; 01/21/2009
4. JAMES HUDDLESTON III, M.D.	11/03/2008
5. WILLIAM MARTIN, M.D.	09/29/2008
6. MARK CULTON, M.D.	09/20/2008
7. DAVID KRAMER, M.D.	08/28/2006 (2 RPTS)
8. BRIAN KARVELAS, M.D.	09/03/2003
9. ALLEN KAISLER-MEZA, M.D.	02/25/1999
10. THERESA COLOSI, M.D.	02/19/1999
11. VICTOR WU, M.D.	02/19/1999
12. STANLEY HARMON, M.D.	06/02/1994
13. GARY FANTON, M.D.	02/25/1993; 11/30/1990; 10/30/1990
14. RICHARD TURNER, M.D.	11/01/1990

MEDICAL REPORT FROM BOARD’S DIRECTOR	DATED
RAJIV DAS, M.D.	07/12/2010

(M.S.C. Kaldor/Herrera) Motion to approve. 6-0-0

- e. **John P. Martinez**, Retired Fire Fighter, Fire Department. Request for change in status to Service-Connected Disability Retirement effective January 13, 2007; 29.71 years of service. Mr. Martinez was present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR’S NAME	DATED
1. PATRICK MCCREESH, M.D.	1/5/10 (X2), 11/14/09 (X2), 11/6/09 (X2), 10/25/09 (X2), 10/24/09 (X2), 10/12/09 (X2), 11/10/09, 11/3/09, 11/2/09, 10/27/09, 10/14/09, 10/13/09, 10/1/09, 9/30/09, 1/11/07, 10/26/06, 9/13/06, 7/6/06 (X2), 1/30/06, 11/9/05 (X2)
2. LAWRENCE CHAN, M.D.	1/17/08, 8/9/06
3. MARIA MATSUMOTO, M.D.	8/30/07
4. BRENDAN MORELY, M.D.	10/23/07
5. EUGENE DELLAMAGGIORE, M.D.	5/8/07
6. DAVID KRAMER, M.D.	1/16/07, 2/1/06, 12/29/05
7. WILLIAM SOULE, M.D.	7/31/06 (X2)
8. JOSHUA URVATER, M.D.	8/5/05; 7/27/04, 2/22/01, 4/11/00
9. REGAN ASHER, M.D.	4/21/00
10. DAVID GOLDWAG, D.O.	5/21/99
11. WARDON WONG, M.D.	3/24/94

MEDICAL REPORT FROM BOARD’S DIRECTOR	DATED
RAJIV DAS, M.D.	7/11/10

(M.S.C. Herrera/Kaldor) Motion to approve. 6-0-0

- f. **Timothy I. Miller**, Retired Fire Engineer, Fire Department. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 32.73 years of service. Mr. Miller was not present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR’S NAME	DATED
PATRICK MCCREESH, M.D.	1/25/10 (TWO REPORTS) : 8/11/09 (FOUR REPORTS) : 5/7/09 : 11/5/08 : 9/3/08 : 4/16/07
EUGENE DELLAMAGGIORE, M.D.	10/20/09 (THREE REPORTS) : 8/7/07 : 5/13/09 : 1/20/09 :

	4/6/06 : 10/24/05
JUDITH PETO, PA-C	10/1/09
MURRAY SOLOMON, M.D.	7/24/09 : 11/18/08
MARK CULTON, M.D.	12/4/08
RAY HSIEH, M.D.	5/7/08
JOHN RENNICKK, M.D.	4/16/07 : 4/16/07
LUCY LIN, M.D.	10/23/07
LAWRENCE CHAN, M.D.	5/8/07

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	7/9/2010

(M.S.C. Kaldor/Herrera) Motion to approve. 6-0-0

- g. **John P. Quayle**, Retired Police Officer, Police Department. Request for change in status to Service-Connected Disability Retirement effective January 31, 2005; 25.00 years of service. Mr. Quayle was present and represented by Attorney *Thomas J. Boyle*. The following reports were presented to the Board:

MEDICAL REPORTS – DR'S NAME	DATED
C. ARULANANDAN, M.D.	3/3/10 (2)
JONATHAN NG, M.D.	11/20/09, 8/5/09 (4), 6/26/09

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	5/11/10

As the applicant is filing for disability more than one year after service retirement, there was discussion regarding the timeline of his injuries and whether or not there was previous medical basis for evidence that the disease was caused by the job and was harmful. Discussion was also held regarding the availability of a permanent modified duty position at the time of applicant's service retirement and whether the applicant's work restrictions would have precluded the applicant from returning to work at that time.

(M.S.C. Liccardo/Herrera) Motion to continue item to next month's Board meeting. 6-0-0

- h. **Gordon R. Snyder**, Retired Fire Engineer, Fire Department. Request for change in status to Service-Connected Disability Retirement effective July 12, 2008; 25.08 years of service. Mr. Snyder was present and represented by Attorney *Samuel R. Swift*. The following reports were presented to the Board:

MEDICAL REPORTS – DR'S NAME	DATED
1. PATRICK MC CREESH, M.D.	01/31/2010 (4 REPORTS), 07/22/09, 11/05/07, 05/30/07, 04/05/07, 03/26/07
2. BRIAN MARTIN, P.A.	04/28/08
3. NICHOLAS ABIDI, M.D.	04/18/08, 11/29/07 (TWO REPORTS)
4. MARK COLTON, M.D.	01/30/08
5. LAWRENCE CHAN, M.D.	07/30/07
6. DAVID KRAMER, M.D.	04/04/07
7. MARK BERNHARD, D.C.	12/01/06
8. ELIUD GARCIA, M.D.	11/02/99

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	07/15/2010

(M.S.C. Liccardo/Herrera) Motion to approve. 6-0-0

- i. **Bruce Toney**, Retired Police Lieutenant, Police Department. Request for change in status to Service-Connected Disability Retirement effective January 13, 2007; 27.55 year of service.
This item is Deferred at the attorney's request.
- j. **Jeffrey Weber**, Retired Arson Investigator, Fire Department. Request for change in status to Service-Connected Disability Retirement effective January 10, 2009; 27.71 years of service.
This item is Deferred at the attorney's request.

4. **Deferred Vested**

- a. **Rod M. Chin**, Police Officer, Police Department, effective August 28, 2010; 14.89 years of service. (With reciprocity) **(M.S.C. Herrera/Kaldor) Motion to approve. 6-0-0**
- b. **Daniel M. Katz**, Assistant Police Chief, Police Department, effective August 14, 2010; 28.20 years of service. (With reciprocity) **(M.S.C. Herrera/Kaldor) Motion to approve. 6-0-0**

DEATH NOTIFICATIONS (Moment of Silence)

The item listed below is Note and File

5. Notification of the death of **Gary Parks**, Retired Fire Engineer, retired 9/2/99, died 7/15/10.
Survivorship benefits to Joni Parks, spouse.

NEW BUSINESS

6. **Approval to rescind retirement application of Oscar D. Bazurto; approved at June 3, 2010 meeting.**
(M.S.C. Kaldor/Herrera) Motion to approve. 5-0-1 (Johnson – Abstain)

Trustee Johnson left at 9:55 A.M.
7. **Approval to rescind retirement application of Harry L. Jackson; approved at June 3, 2010 meeting.**
(M.S.C. Herrera/Kaldor) Motion to approve. 5-0-1 (Johnson – Absent)
8. **Approval to rescind retirement application of Paul A. Eden; approved at June 3, 2010 meeting.**
(M.S.C. Herrera/Kaldor) Motion to approve. 5-0-1 (Johnson – Absent)
9. **Approval to rescind retirement application of John A. Wells; approved at June 3, 2010 meeting.**
(M.S.C. Kaldor/Herrera) Motion to approve. 5-0-1 (Johnson – Absent)
10. **Approval of Lifetime Monthly Payment Option to be paid to Mary Steele, ex-spouse of Retired Fire Captain Philip Demers, to be effective September 9th, 2010 under Part 17, Section 3.36.3600 of the San José Municipal Code.**
(M.S.C. Herrera/Kaldor) Motion to approve. 5-0-1 (Johnson – Absent)

Trustee Johnson returned at 9:58 A.M.

11. **Adoption of Resolution No. 3676 denying the Service-Connected Disability Retirement application of David Santiago, Jr.**
(M.S.C. Herrera/Kaldor) Motion to approve. 6-0-0
12. **Review and recommendation on Ordinances to Implement Retirement Board Governance changes**
 - a. **Amending Section 2.08.130 of Chapter 2.08 of Title 2 of the San José Municipal Code to**

revise provisions for removal of Retirement Board Members.

- b. **Amending Part 12 of Chapter 2.08 of Title 2 and Section 3.36.330 of Part 3 of Chapter 3.36 of the San José Municipal Code to revise the structure of the Board Of Administration for the Police And Fire Department Retirement Plan, adopt minimum qualification criteria for public members of said Board, revise provisions for compensation of Board Members and revise the definition of a Board quorum.**

Ms. Dent stated that the Ordinances implement the direction the City Attorney's office was given by the City Council in February 2010. The Board may provide a recommendation and comments on the Ordinances to the City Council.

Chair Bacigalupi requested clarification regarding how the Ordinances are written as there is a change from previous practice in the election of the Police and Fire representatives to the Board. Previously both the Police and Fire retirees voted for the Police and Fire representatives, but the ordinances changes the voting method so the Police retirees vote for the Police representative and the Fire retirees vote for the Fire representative.

Ms. Dent responded that the voting method was an area where she had to interpret the direction from City Council. Direction was given that there was to be a Police representative and a Fire representative, but no direction regarding how the representatives were to be elected. The Board may make a comment back to City Council regarding the voting structure.

Chair Bacigalupi stated that it is important to know whether this interpretation is what the City, the POA, and the Local 230 agreed to and if the Retirees Association had any discussion. The Board should not make a recommendation without understanding the intent.

Ms. Dent explained that the Ordinances have been publically posted for the City Council agenda, which allows interested parties to review and make comments. There is a two step process with the ordinances: first, they are posted for City Council agenda and then passed for publication for title after which another 30 days passes before the Ordinances are adopted. They can be changed until adopted.

Chair Bacigalupi asked about the residency requirement as it was slightly different from what the Board understood.

Ms. Dent stated that she had received comments regarding the residency requirement about which counties would be included. The Board may make a comment back to the City Council regarding the residency requirement.

Mr. DeMers stated that the agreement as understood by the Retirees' Association was a 50-mile residency requirement and there has been no previous discussion regarding changing the voting structure for the Police and Fire representatives.

Trustee Kaldor expressed concern with the implementation of the new Board Structure once the Ordinances are approved as it may be challenging to fill the positions and there may be a lengthy process in selecting qualified Board members.

Ms. Dent explained that the City Clerk's Office is responsible for all recruitments for City Boards and Commissions and the existing Board continues until new members are appointed to the Board allowing it to be fully functioning during the recruitment process.

Trustee Herrera questioned the interpretation to split the Police and Fire retiree votes and stated that the 50-mile radius residency requirement was the agreement, as she understood it.

Chair Bacigalupi stated that he would like to review the Ordinances further to get a better idea of the intent of the negotiations and, therefore, continue this item to the next Board Meeting.

Trustee Liccardo stated that he would like to see the Ordinances move forward quickly. He questioned the 50-mile radius residency requirement as it is imperative to select the best candidates and the 50-mile radius residency requirement excludes a significant portion of San Francisco and other counties where the financial minds reside. The Board is independent and should make independent recommendations on what is best practice to the City Council.

Trustee Johnson stated that he agrees that the 50-mile radius poses a challenge in recruiting the best candidates as the Finance Department used to have an investment committee and consistently had was not able to fill the public positions.

Trustee Kaldor stated that he supports the motion to continue the item to next month in order to review the qualifications of the candidates, as there is focus on investment qualifications, but not on candidates who understand the disability and medical process.

Trustee Johnson inquired about how delaying the Board's recommendation would affect the adoption process by City Council.

Ms. Dent stated that the City Council could move forward with the ordinances without the Board's recommendation if it wants to, if there is a need to adopt it without providing the 60-day period for review. The ordinances will then go to the Board for study and the Board can take as long as needed to study and then provide a recommendation to the City Council for repeal and re-adoption or no action.

(M.S.C. Bacigalupi/Herrera) Motion to continue this item to next month and request OER to provide additional information regarding the negotiations. 5-1-0 (Liccardo – No)

13. Discussion regarding Lowest Cost Medical Plan memo from Alex Gurza, Director of Employee Relations.

This item is Note and File

Ms. Rodriguez stated that there have been changes to the plan design for some employee groups effective now and for other groups in January. City Council has approved deferring the changes to retirees until January allowing time for the retirees to prepare for the changes. There will be a new lowest cost medical plan with \$25 co-payments.

Ms. Busse explained that the new lowest cost medical plan will change the subsidy that the City pays for retiree health care.

Ms. Groen stated that HR will continue to offer the \$10 co-payment plan for 2011, but it will no longer be the lowest cost medical plan, so retirees, who select the \$10 co-payment plan, will pay the difference between the cost of the \$25 co-payment plan and the \$10 co-payment plan.

Chair Bacigalupi suggested that additional notices, letters, and a reminder in the newsletter be provided to the retirees announcing the new lowest cost medical plan.

**14. Approval of Macias Gini & O'Connell's 2010 Audit Service Plan.
(M.S.C. Herrera/Johnson) Motion to approve. 6-0-0**

**15. Report on city's prefunding of required contributions for Fiscal Year 2010-11 and reconciliation for Fiscal Year 2009-2010.
*This item is Note and File***

Trustee Kaldor asked if the changes in Fire Department staffing would change the pre-funding payment amount.

Ms. Niebla stated that the pre-funding payment amount was calculated based on assumed changes in Fire Department staffing.

Secretary Crosby explained that a reconciliation is performed each year to balance out any variances.

16. Review and recommendation on Ordinance to clarify provisions in the Police and Fire Department Retirement Plan related to Internal Revenue Code Limitations on Pension benefit calculations.

Ms. Dent explained that that this Ordinance is first of a series of Ordinances needed as a result of the independent tax counsel review and are a precursor to filing for the tax qualification letter. The Ordinance was drafted and recommended by the outside tax counsel to ensure that we are properly implementing and reflecting the limitations of Section 415 of the IRS code. This Ordinance went to City Council for first reading in June and is on the City Council agenda for Tuesday, August 17, 2010.

Mr. Richeda stated that adopting the ordinance only implements and specifies what was already in place regarding Section 415 of the IRS Code. It is an important piece to have in place in preparation for filing for the tax determination letter.

(M.S.C. Johnson/Herrera) Motion to recommend approval to the City Council. 6-0-0

**17. Review of Accounting update regarding GASB proposed changes to accounting rules under statements 25, 27, 43 and 45.
*This item is Note and File***

Mr. Moehle explained that staff wanted to bring this issue to the Board's attention for informational purposes. GASB is the entity that sets the accounting standards for public plans. GASB has proposed revisions to GASB Statement 27, which details how the City accounts for pension benefits on its financial statements. The proposed changes will not impact how the Board sets contribution rates that the City is required to pay to fund the benefits. The proposed changes are accounting standards that will affect the City and how it records pension liability and annual expense. In mid-June GASB issued about 20 preliminary views, which are very general, and have asked for comments from the public. If the changes go into effect, they will affect the City accounting for pensions. The City will be required to book a liability that it currently does not, which is the difference between the actuarial liability and the market value of assets; no more asset smoothing. The net liability would be required to be reported on the City's balance sheet. Currently, under GASB Statement 27, there is no liability booked on the City's financial statements for the pension plan because the City continually pays the annual required contribution (ARC).

There will also be a different cost calculation of the City's annual expense. The City currently records an expense that is identical to what the Board sets as the required contribution, or the ARC. If the new

standard goes into affect, the City's standard of cost will change. The required cash contribution will not necessarily change, but what the City records on its financial statements as expense will most certainly change and become more volatile.

The process could be two to three years before a final statement is issued. GASB has not proposed an effective date nor stated if there will be any transition rules from GASB Statement 27 to the new statements.

18. Review and action on Ordinance No. 28753 amending SJMC to implement revisions in employee and employer contributions.

This item is Note and File

Ms. Dent stated that the Ordinance has been adopted so that it could be implemented quickly. It does not change the contribution rates specified by the Board, but does address how the contributions will be split between the employees and the employer for the bargaining groups that have agreed to the changes.

OLD BUSINESS/CONTINUED - DEFERRED ITEMS

19. Approval for the Secretary to negotiate and execute the third amendment to the agreement with the Segal Company to increase compensation by \$340,000 for a total not-to-exceed amount of \$905,000 for actuarial services rendered for the period 2006 through fiscal year 2010-2011.

(M.S.C. Johnson/Liccardo) Motion to approve. 5-0-1 (Herrera – Absent)

20. Discussion and possible action on Macias Gini & O'Connell's Draft Payroll-Agreed-Upon Procedures including FLSA.

Ms. Niebla stated that the draft Payroll-Agreed-Upon Procedures provides a status update on the progress of the report.

Trustee Johnson noted that providing a draft report to the Board is unusual and there seems to be little value in the Board reviewing the draft report as some of the report may not be relevant after the payroll staff reviews the findings and provides comments.

Ms. Hurley explained that MGO was asked by management to present the draft report even though there are areas that require follow-up and comment. The purpose of presenting the report was to give the Board a status update regarding the process, which has been ongoing for two years.

Secretary Crosby stated that there has been considerable interest from trustees regarding the status of this project and this draft report presents the status after more than two years by MGO and staff.

Ms. Hurley stated that the scope of their assignment was to assist management in determining if pensionable salaries, contributions, and adjustments for particular periods noted within the report were being calculated accurately in accordance with the San Jose Municipal Code. The report is not an audit; rather, assistance to management regarding procedures in the following eight areas: a general understanding of how pensionable salaries are calculated, a review of earnings codes, a review of eligibility within the Plan, a review of the pensionable calculation for earnings, a review of the interface of the flow of data from PeopleSoft to PensionGold, a review of military pay, a review of retroactive pay and any adjustments, and a review of FLSA adjustments.

Chair Bacigalupi asked about the timeline for the conclusion of the report.

Ms. Hurley stated that there is no estimated timeline at this point as there are still open questions with Finance and determination of how much further the Retirement Services Department would like MGO to examine the procedures.

(M.S.C. Liccardo/Johnson) Motion to Note & File this Item. 5-0-1 (Herrera – Absent)

21. Discussion and possible action regarding the continuation of Exit Physicals

- a. **City Administration's informational memo regarding the City's health plans**
- b. **Retirement Services Informational memo regarding the history of the Exit Physical Program**
- c. **Oral report from the legal counsel regarding Board's authority to offer Exit Physicals**

Ms. Dent stated that from a legal perspective there has to be a purpose for the Board to pay for exit physicals other than as a benefit to participants, as the Board's function is not to provide additional benefits, but to administer the benefits, which the Plan provides. The only two functions of the exit physicals from a legal perspective are (1) aiding the Board in the disability process and (2) having wellness and disease prevention programs may reduce medical costs in the future. The Board needs to articulate its purpose in continuing to pay for the benefit.

Chair Bacigalupi recalled that when the benefit was granted there was discussion of its usefulness in the disability process.

Trustee Liccardo asked why retirees could not have the exit physical paid for by their insurance provider.

Trustee Kaldor responded that the insurance providers seemingly do not provide all the tests that are provided in the exit physicals.

Trustee Liccardo asked why the Plan pays thousands of dollars for tests that doctors do not necessary believe are required under their basic guidelines. The Board can encourage everyone about to retiree to visit their physician for a physical and additional tests, but it does not seem necessary for Plan assets to be used.

Ms. Groen stated that physicians drive what tests are medically necessary and use guidelines that are published as good preventative standards to determine what are acceptable medical standards for preventative care. Preventative tests have little to no costs and the health plans provide for all the tests.

Trustee Kaldor stated that the exit physicals provide retirees with the option to be tested further than through their insurance. It would be helpful to provide retirees with a list of recommended tests they should request from their insurance provider.

Ms. Dent stated that the Plan can fund the exit physicals if the Board finds that providing the exit physicals for retirees to have at their option is useful to the Board, but there is no obligation to provide exit physicals.

Trustee Herrera departed at 11:00 A.M.

(M.S.C. Liccardo/Johnson) Motion to come back to the Board with a proposal for enhanced notification to retirees regarding which tests should be requested and what other steps can be taken to encourage retirees to request these tests, to request Dr. Das to provide his opinion on the value of the exit physicals in making a determination in future disability retirements, and to continue the exit physicals through the next Board meeting. 5-0-1 (Herrera – Absent)

22. Review and adopt revisions made to the Placement Agent Policy.

Mr. Kumar stated that the Board adopted a joint Placement Agent Policy with the Federated City Employees' Retirement System in June. The Federated Employees' Retirement System adopted a separate policy; therefore, a separate policy was needed for the Police & Fire Department Retirement Plan.
(M.S.C. Johnson/Taylor) Motion to adopt revisions. 5-0-1 (Herrera – Absent)

23. Oral update and possible action on the Final Compensation for pension calculation purposes.

Ms. Dent stated that the memo provided in May was circulated to OER and to the Bargaining Units. The purpose was to determine if they had additional information or input they wanted to give to the Board regarding the definition.

Ms. Rodriguez stated that OER did send emails to both the POA and the Local 230 requesting clarification and input on the document and has not received a response from either bargaining group. OER may recommend that the City Attorney's Office proceed with drafting the Ordinance to make the changes to correct the drafting errors.

(M.S.C. Kaldor/Taylor) Motion to approve. 5-0-1 (Herrera – Absent)

24. Oral update on status of Plan tax qualification review.

Ms. Dent stated that the Board received one Ordinance that resulted out of the outside Tax Counsel's review. In October, the City Attorney's Office would like to have the outside Tax Counsel present to the Board their other findings with respect to the Plan. The Board needs to provide direction as to whether the presentation should go to the full Board or have an ad hoc committee on the tax qualification issues before they come to the Board. If the presentation goes to the full Board, for cost savings purposes, it would be ideal to have a special Board meeting on the same day as a Federated Special Board meeting so outside tax counsel only has to make the trip once. The target date for the presentation is October 20th and the request will go to the Federated Board next week.

Chair Bacigalupi requested the Special Board meeting to take place at Retirement Services' Office where there is ability to teleconference, which would help save cost.

Ms. Dent stated that the meeting with outside tax counsel would likely take two to three hours.

Chair Bacigalupi stated that the outside tax counsel issues are detailed and important and would prefer that the presentation be available to the full Board. The consensus of the Board is for staff to arrange a teleconference call with outside tax counsel for October 20, 2010.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS

25. Investment Committee (Bacigalupi/Johnson/Taylor/Alternate: Kaldor)

Next meeting August 19, 2010

Chair Bacigalupi requested that the Investment Committee meeting start at 9:30 A.M.

26. Investment Committee of the Whole

Next meeting August 19, 2010

CONSENT CALENDAR (Items 27 through 34)

(M.S.C. Johnson/Taylor) Motion to approve. 5-0-1 (Herrera – Absent)

27. Approval of Minutes

Monthly meeting held June 3, 2010

28. Approval of Travel/Conference Attendance

- a. **Mollie Dent – National Association of Public Pension Attorneys - 2010 Legal Education Conference, Asheville, NC, June 22 – 25, 2010**
- b. **Conrad Taylor –**
 1. **Hedge Funds, Real Estate and Other Alternative Investments, Wharton School, San Francisco, CA, July 19 – 21, 2010**
 2. **SACRS Public Pension Investment Management Program, UC Berkeley, Berkeley, CA, August 9 – 11, 2010**
- c. **Sean Kaldor –**
 1. **Hedge Funds, Real Estate and Other Alternative Investments, Wharton School, San Francisco, CA, July 19 – 21, 2010**
 2. **SACRS Public Pension Investment Management Program, UC Berkeley, Berkeley, CA, August 9 – 11, 2010**
- d. **Ali Amiry –**
 1. **Manager Due Diligence, New York, NY, July 14 - 16, 2010**
 2. **Manager Meeting, Los Angeles, CA, July 19, 2010**
- e. **Ryan Jusko –**
 1. **Manager Due Diligence, Atlanta, Connecticut, New York, July 14 – 16, 2010**
 2. **Manager Due Diligence, Pasadena, CA, July 26, 2010**
- f. **May Cheung - CalAPRS' Information Technology Roundtable, San Diego, CA, September 10, 2010**
- g. **Veronica Niebla – CalAPRS' Accountants Roundtable, San Diego, CA, October 15, 2010**

29. Approval of Monthly Expenses

P&F Plan Expenses for June 2010

30. Pending Action

Updated List as of August 2010

31. Benefits Review Forum

Summary of meeting held on June 23, 2010

32. Return of Contributions

- a. Voluntary
- b. Involuntary – None

33. Investments

- a. Adoption of Resolution number 3677 for the period April 1 through April 30, 2010.
- b. Adoption of Resolution number 3678 for the period May 1 through May 31, 2010.

34. Communication/Information

- a. Legal Updates
- b. Legislative and Legal Updates
- c. Report on Investments as of April 30, 2010
- d. Report on Investments as of May 31, 2010

Proposed Agenda Items - None

Public Comments

Darryl Von Raesfeld, Retired Fire Chief for City of San José, requested that the Board follow-up on the status of the ordinance concerning Section 415(m) of the Internal Revenue Code as back in 2004 the Board provided a proposal to OER and nothing has happened since.

Chair Bacigalupi stated that it will be scheduled to be on the next Board meeting agenda.

Education and Training

The below item is Note and File

35. Notification of CalAPRS' Trustees' Roundtable to be held in San Diego, CA, October 15, 2010.

ADJOURNMENT at 12:10 P.M.



DAVID BACIGALUPI, CHAIR
BOARD OF ADMINISTRATION

ATTEST:



RUSSELL U. CROSBY, SECRETARY
BOARD OF ADMINISTRATION