

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

September 7, 2006

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:42 a.m., on Thursday, September 7, 2006, 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, CHAIR

KENNETH HEREDIA, VICE CHAIR

BILL BRILL

LARRY LISENBEE

DAVID CORTESE

BRET MUNCY

CINDY CHAVEZ

Fire Employee Representative

Retiree Representative

Civil Service Representative

City Administration Representative

City Council Representative

Police Employee Representative

City Council Representative

ALSO PRESENT:

Edward F. Overton -SECRETARY / DIRECTOR

Susan Devencenzi -City Attorney

Roger Pickler -Staff

Tamasha Johnson -Staff

Donna Busse - "

Greg Spence -Retiree

Mike Pribula -Staff

Jim Spence -SJPOA

Karin Carmichael -Staff

Carol Bermillo -Staff

Robert Garald -Fire

Brian Hyland -Police

Judy Powell -Staff

Jerry Boyer -Retiree

Tom Butts -Attorney

Dail Morgan -SJPD

Kevin O'Connell -MGO

Tom Webster -Staff

Russ Richeda -Saltzman & Johnson

Debbi Warkentin -Staff

Udaya Rajbhandari - "

Ron Kumar - "

Thomas Boyle -Attorney

Matt Stanek -Attorney

Kerry Burns -Fire

Amanda Ramos -Staff

Jim Jeffers -Attorney

Gary Bystrom -Fire

Greg Weesner -Police

Linda Hurley -MGO

Edward Luna -CSJ

Sam Swift -Attorney

Sandra Holloway -SJPD

REGULAR SESSION

ORDERS OF THE DAY

The Chair called the meeting to order at 8:42 a.m.

RETIREMENTS

Service

Billy K. Dishman, Sergeant, Police Department. Request for Service Retirement effective September 23, 2006; 25.24 years of service. **(SCD Pending)**

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

David Keneller, Police Captain, Police Department. Request for Service Retirement effective September 23, 2006; 29.73 years of service.

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

Michael K. McGue, Fire Engineer, Fire Department. Request for Service Retirement effective September 29, 2006; 25.95 years of service.

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

Moises Reyes, Jr., Sergeant, Police Department. Request for Service retirement effective September 23, 2006; 25.65 years of service.

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

Disabilities

Brian T. Hyland, Sergeant, Police Department. Request for Service-Connected Disability Retirement effective September 7, 2006; 24.22 years of service.

Sergeant Hyland was present and was represented by **James Jeffers**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
R.K. Japra	8/14/06; 7/15/04; 6/3/04 (2 rpts); 5/13/04 (2 rpts)
William Breall	7/27/05; 3/7/05; 9/20/04
Jonathan Ng	7/12/05; 2/16/05
Puneet Chandak	7/15/05

Dr. Das stated that based on the medical information he has reviewed, most of the complaints seem to be subjective.

Mr. Jeffers stated that police work is very strenuous and stressful and his treating doctor states that he can't work.

Mr. Hyland stated that he seldom missed work and he begin having chest pains, finally went to the doctor and they found a blockage in his artery and they did an angioplasty. He went through a brief history of chest pains thereafter and that he should avoid worsening his condition.

Member Heredia asked if the Court said that when a Department offers modified duty that they be very specific.

Mrs. Devencenzi said that the Department gave a generic description of a modified position; in this case it is with IA.

Lieutenant Dale Morgan stated there are many positions available within IA or personnel unit.

Mrs. Devencenzi stated that the job description does fit into the legal parameters, as he did state the specifics.

Mr. Jeffers said the problem here is that the different doctors have varying opinions and the Department should provide a description of the position duties to show to the doctors and that maybe a short continuance to the next meeting will suffice.

(M.S.C. Brill/Heredia) to defer item to next Board Meeting. Motion carried 7-0-0.

Change in Status

Linn Bergland, Retirement Fire Engineer. Request a change to Service-Connected Disability Retirement effective January 29, 2005; 30.96 years of service.

Fire Engineer Bergland was present and was represented by **Sam Swift**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
Terrence Delaney	4/18/06; 7/12/05; 11/18/04
Ronald Fujimoto	5/31/05
Mary DeFigard	5/31/05
Patrick McCreesh	3/10/05; 12/15/04; 6/17/04
Lawrence Chan	2/5/05 (2 rpts)
H. Sekho	8/27/04

Dr. Das stated that the symptoms reveal similar findings based on the medical information and the examination performed by him.

Mr. Swift described the history of injuries received by Mr. Bergland. He also discussed the various treatments and examination details for the injuries.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

Gary H. Bystrom, Retired Fire Captain. Request a change to Service-Connected Disability Retirement effective January 30, 2005; 30.95 years of service.

Retired Captain Bystrom was present and was represented by **Sam Swift**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
Allen Kaisler-Meza	7/13/06; 3/30/06; 8/3/04; 8/2/03
John Colman	7/25/05; 5/20/04
Peter Abaci	5/23/05
Rory Satterfield	2/18/05
Frank Ruiz	7/5/04
Mark Culton	5/27/04
Gerald Keane	4/11/01; 10/9/98; 6/9/98; 3/6/98; 7/29/97; 4/23/97; 4/7/97; 3/5/97
Colleen Irwin	3/31/97
Russell Fritz	3/12/97

Dr. Das described the injuries and stated that his restrictions were based on his clinical examination.

Mr. Swift explained the different injuries occurring during the course of Mr. Bystrom's employment and described the various treatments he has undergone.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

Robert W. Carabla, Retirement Firefighter. Request a change to Service-Connected Disability Retirement effective July 30, 2005; 37.45 years of service.

Retired Firefighter Carabla was present and was represented by **James Jeffers**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
Jonathan Ng	5/26/06; 4/17/06
Alierza Bagherian	10/4/05
March Pelletier	3/3/05; 2/19/05
Brandon Wong	2/4/05
Norma Morrison	2/19/04
Alvin Nickel	12/1/99

Dr. Das described the medical information and the surgery that Mr. Carabla has undergone and stated that the risk of bleeding makes him unable to perform.

Mr. Jeffers stated that he agreed with Dr. Das' statement and that it is in alignment with other medical evaluator's opinions.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

Gregory D. Spence, Retired Battalion Chief. Request a change to Service-Connected Disability Retirement effective August 3, 2006; 30.24 years of service.

Retired Battalion Chief Spence was present and was represented by **Jim Butts**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
Allen Kaisler-Meza	6/6/06; 1/27/06
Jeffrey Holmes	4/21/06
Hamid Mehdizadeh	7/15/05; 12/19/02; 7/29/02; 5/10/02; 12/11/01; 12/6/01; 12/3/01
Ali Soozani	11/28/01
John Colman	7/12/99; 9/29/98; 5/20/97; 12/6/96; 7/21/96; 4/23/96; 3/21/96
Michael Gold	10/14/98; 9/24/98; 3/31/98
Murray Soloman	4/2/96

Dr. Das described the surgery Mr. Spence underwent and said that his work restrictions are based on the treating doctors restrictions.

Mr. Butts stated that the Department did not have any modified duty positions.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

Gregory L. Weesner, Retired Police Officer. Request a change to Service-Connected Disability Retirement effective July 30, 2005; 25.03 years of service.

Mr. Weesner was present and was represented by **James Jeffers**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
Jonathan Ng	3/4/06; 2/9/06
Ronald Fujimoto	7/11/05; 11/1/04; 6/9/04
Darrell Bruga	6/27/05; 5/13/05
Neil Starksen	3/29/05; 12/7/04
Rodolfo Morales	8/1/04
Terrance Delaney	4/8/03; 1/17/03; 7/12/02
Walter Silberman	5/7/01

Dr. Das described Mr. Weesner's injuries and the resulting diagnosis and stated that his restrictions were based on the treating physicians'.

Mr. Jeffers said that Mr. Weesner is physically and emotionally disabled. He described the injuries and surgeries received and stated that in the restrictions is listed that he should avoid undo stress, so that Mr. Weesner needs to avoid emotional stress, so therefore he cannot perform in a modified capacity due to the high level of stress involved.

Mr. Weesner described the series of injuries and illnesses over the course of his employment and he described his work duties and the stress related to each of those tasks.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

Deferred Vested - None

DEATH NOTIFICATIONS - None

NEW BUSINESS

Approval of the request for determination of the service connectivity of the death of Clifford E. McClanahan, Active Firefighter, died 5/25/06, 26.87 years of service.

Mrs. McClanahan was present and was represented by **Thomas Boil**.

For the record the following medical reports were introduced:

<u>Doctor's Name</u>	<u>Report Date</u>
Nalini Bhat, M.D.	5/22/06
Wen Jing, M.D.	5/19/06
E.Q. Dizon, M.D.	5/17/06
Hugh Harris, M.D.	5/12/06
Andrea Baron, M.D.	5/9/06

<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	8/15/06

Dr. Das stated that Mr. McClanahan passed away due to complications from Lung Cancer and in his line of work he was exposed to smoke, radon, and asbestos.

Chair Skeen stated that Mr. McClanahan had several other medical problems and asked why those medical records were not included.

Dr. Das stated that he was not privy to that information.

Mr. Boil said that based on the presumptive cancer section of the Code presents industrial service-connected disability, if it is not clear from the evidence then he would ask for the Board to fully develop the medical record.

Member Heredia stated that he was present when testimony was given at the presumptive cancer hearing and he knows that they firefighters did not wear masks back in the 60's and 70's, so there is no question about gas exposure to Mr. McClanahan.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

OLD BUSINESS / CONTINUED ITEMS – None

Update on excess earnings benefit.

The Secretary stated that the Board approved a Plan amendment in June 2004, and was referred to employee relations for meet and confer. We have a call in to find out the status of this issue.

Member Heredia said that his questions are who has to approve/agree to the amendment so council can approve it?

The Secretary said that it is with the bargaining units.

Mrs. Devencenzi stated that if the amendment will affect Police & Fire then both bargaining parties would have to review it and it would be subject to meet/confer, but both would have to be given an opportunity to review it.

The Secretary said that this item will be continued at the October Board meeting.

Oral update on status of DRS Audit by Macias & Gini.

Linda Hurley stated that they just finished with their field work, as they were on site for three weeks, so they are wrapping up the information now. They will be providing a draft report to City Finance and staff should have their section done by mid-September and the CAFR can be done by the end of the month, so the audit is on track.

Member Heredia asked if there is a specific plan for what items they were prepared to audit and if there was any pressure put on the auditors to review something other than what was on their agenda.

Kevin O'Connell stated that there was absolutely no pressure from any sources, they did have an awareness of the other audit going on and they did look into it as far as if it would have any impact on the scope of their own audit, but there was no influence from any one. The work was done within their professional standards.

Member Heredia and **Member Lisenbee** discussed with *Linda Hurley* and *Kevin O'Connell* their concerns.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS

Investment Committee (Skeen/Heredia/Muncy)

- Summary of meeting held 17 August 2006.

This item is note and file.

Real Estate Committee (Skeen/Heredia/Muncy – Alt: Vacant) – Next meeting 9/21/2006.

Investment Committee of the Whole (Full Board)

- Summary of meeting held 17 August 2006.

This item is note and file.

APPROVAL OF MINUTES

Monthly board meeting held 3 August 2006.

(M.S.C. Heredia/Brill) to approve. Motion carried 7-0-0.

PENDING ACTIONS LIST

Updated list as of 29 August 2006.

Member Lisenbee inquired about the status of the GASB 43/45 work.

The Secretary explained that we are finalizing the agreement with Seagal and that Mr. Hallmark emailed data to them so they could do the work.

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

BENEFITS REVIEW

Member Heredia asked for an update regarding the status of the RFP and of the medical plan contenders, if Kaiser is still going to be an option.

Mr. Pickler said that there are three good proposals, there are some modifications being discussed before a decision is made and those details he is not privy to. There could be an option for Kaiser depending on some of those details.

CONSENT CALENDAR

(M.S.C. Brill/Heredia) to approve. Motion carried 7-0-0.

PROPOSED AGENDA ITEMS

PUBLIC COMMENTS

EDUCATION & TRAINING

Notification of NAPO's 19th Annual Public Safety Pension & Benefit Seminar to be held January 21 through 27, 2007 in Las Vegas.

ADJOURNMENT

There being no further business, at 9:40 a.m., **The Chair** stated the meeting would be adjourned.

MARK J. SKEEN, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

EDWARD F. OVERTON, SECRETARY
BOARD OF ADMINISTRATION