

POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

27

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

June 3, 2010

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:38 a.m. on Thursday, June 3, 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 – arrived 8:41 A.M.
Sam Liccardo	Trustee
Scott Johnson	Trustee
Sean Kaldor	Trustee

ALSO PRESENT:

Donna Busse	-ACTING SECRETARY	Pam Swikart	-Staff
Mollie Dent	-City Attorney Office	Veronica Niebla	-Staff
Russ Richeda	-Attorney	Sandra Holloway	-SJPD
Thomas Warren	-Fire	Lt. Mark Bustillos	-SJPD
Jim Jeffers	-Attorney	Ron Kumar	-Staff
Ed Marini	-SJPD	Sam Swift	-Attorney
Rick Martinez	-SJPD	Jesselle Holcomb	-Staff
Will Montano	-SJPF	Sharon Erickson	-City Auditor
Robin Opheim	-City Auditor's Office	Aracely Rodriguez	-OER
Karin Carmichael	-Staff	Ali Amiry	-Staff
Ceara O'Fallon	-Staff	Mike Moehle	-Staff
Ryan Jusko	-Staff	Mark Danaj	-HR
Charnel Benner	-Staff	B. De Mers	-Retiree P&F
Thomas J. Boyle	-Attorney	Franco Vado	-SJPD
Jay Wendling	-SJPOA	Edward Marini	-Retiree PD
Rajiv Das	-Attorney	Rick Martinez	-Retiree PD
Thomas Warren	-Retiree FD	Wilfredo Montano	-Retiree PD
David Santiago	-Retiree PD	Richard P. Sanchez	-Retiree PD
Darryl Von Raesfeld	-Fire Chief		

REGULAR SESSION

Chair Bacigalupi called the meeting to order at 8:38 a.m.

ORDERS OF THE DAY

Chair Bacigalupi made the following changes to the agenda:

Item 2a is deferred at the applicant's request.

Item 1ll the effective date should read June 26, 2010.

Item 3d is deferred at the applicant's request.

RETIREMENTS

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

1. Service

- a. **Ernesto Alcantar**, Police Captain, Police Department, effective June 27, 2010; 29.72 years of service.
- b. **Donald K. Anders**, Deputy Police Chief, Police Department, effective June 26, 2010; 28.35 years of service. (With reciprocity)
- c. **Oscar D. Bazaruto**, Fire Captain, Fire Department, effective June 26, 2010; 24.47 years of service. (With reciprocity) Early Retirement.
- d. **Truman Bowman**, Police Officer, Police Department, effective June 26, 2010; 20.03 years of service.
- e. **Gordon T. Bowen**, Police Lieutenant, Police Department, effective June 26, 2010; 27.34 years of service.
- f. **Michael P. Brown**, Police Sergeant, Police Department, effective June 26, 2010; 26.28 years of service.
- g. **Lloyd Cardone**, Police Sergeant, Police Department, effective June 26, 2010; 27.35 years of service.
- h. **John Carrillo**, Police Officer, Police Department, effective June 26, 2010; 27 years of service.
- i. **David Cavallaro**, Deputy Police Chief, effective June 26, 2010; 28.01 years of service.
- j. **Anthony C. Colon**, Police Sergeant, Police Department, effective July 24, 2010; 26.09 years of service.
- k. **Michael Richard Crescini**, Police Lieutenant, Police Department, effective June 25, 2010; 27.68 years of service.
- l. **Robert Dominguez**, Police Lieutenant, Police Department, effective June 27, 2010; 26.63 years of service.
- m. **Paul A. Eden**, Fire Captain, Fire Department, effective June 27, 2010; 25.95 years of service. (With reciprocity)
- n. **Vaughan W. Edwards**, Police Captain, Police Department, effective June 26, 2010; 27.34 years of service. (With reciprocity)
- o. **Alfred J. Ferla**, Police Sergeant, Police Department, effective June 26, 2010; 28.01 years of service.
- p. **Mark W. Goings**, Police Officer, Police Department, effective June 26, 2010; 23.76 years of service.
- q. **Edward J. Guillory**, Fire Engineer, Fire Department, effective June 26, 2010; 25.93 years of service. (With reciprocity)
- r. **Steven Joseph Gutierrez**, Sergeant, Police Department, effective August 21, 2010; 25.07 years of service.
- s. **Millard F. Hampton**, Police Officer, Police Department, effective June 12, 2010; 25.9 years of service.
- t. **Calvin Hom**, Fire Captain, Fire Department, effective June 26, 2010; 23.74 years of service.
- u. **Curtis A. Jackson**, Police Sergeant, Police Department, effective June 26, 2010; 29.30 years of service.
- v. **Harry L. Jackson, Jr.**, Fire Captain, Fire Department, effective June 26, 2010; 21.90 years of service.
- w. **Matt McLinden**, Police Officer, Police Department, effective June 26, 2010; 28.01 years of service.
- x. **Robert D. Mendiola**, Police Sergeant, Police Department, effective June 26, 2010; 25.13 years of service. (With reciprocity)
- y. **Jeff Olivetti**, Fire Engineer, Fire Department, effective June 27, 2010; 25.95 years of service.
- z. **William Alan Orok**, Police Officer, Police Department, effective June 12, 2010; 24.06 years of service.
- aa. **Christopher Dana Passeur**, Police Officer, Police Department, effective June 26, 2010; 26.68 years of service.
- bb. **Luis Manuel Pinheiro**, Police Officer, Police Department, effective June 26, 2010; 29.38 years of service.
- cc. **Dana C. Reed**, Deputy Fire Chief, Fire Department, effective June 26, 2010; 29.13 years of service.
- dd. **Daniel R. Reinmuth**, Fire Engineer, Fire Department, effective June 27, 2010; 29.84 years of service.
- ee. **Rene T. Retuta**, Police Officer, Police Department, effective June 26, 2010; 25.94 years of service.
- ff. **Jeffrey J. Ricketts**, Police Sergeant, Police Department, effective June 26, 2010; 25.21 years of service.

- gg. **John Rusyn**, Police Officer, Police Department, effective August 21, 210; 25.01 years of service. (With reciprocity)
- hh. **Kim R. Shuper**, Police Sergeant, Police Department, effective June 26, 2010; 27.69 years of service.
- ii. **Robert St. Amour**, Police Sergeant, Police Department, effective June 27, 2010; 28.57 years of service.
- jj. **Nestor Torres**, Police Officer, Police Department, effective June 26, 2010; 28.92 years of service.
- kk. **Theodore J. Urban**, Police Officer, Police Department, effective June 26, 2010; 27.70 years of service.
- ll. **Darryl Von Raesfeld**, Fire Chief, Fire Department, effective June 26, 2010; 32.65 years of service.
- mm. **John A. Wells**, Fire Captain, Fire Department, effective June 26, 2010; 27.12 years of service.
- nn. **Neal Sherwood Wilson**, Police Sergeant, Police Department, effective June 26, 2010; 28.35 years of service.
- oo. **Anthony Young**, Police Sergeant, Police Department, effective June 26, 2010; 26.96 years of service.

Trustee Liccardo recognized and thanked Chief Von Raestfeld for his contributions to the City.

Trustee Bacigalupi congratulated the thirty-one Police and ten Fire retirees. He acknowledged their nearly eleven-hundred years of combined service.

2. Disabilities

- a. **Kyle Johnson**, Police Officer, Police Department, effective June 3, 2010; 14.20 years of service.
This item is Deferred at the applicant's request.

3. Change in Status

- a. **Edward C. Marini**, Retired Police Officer, Police Department. Request for change in status to Service-Connected Disability Retirement effective January 12, 2008; 28.77 years of service. Mr. Marini was present and represented by Attorney *Jim Jeffers*. The following reports were presented to the Board:

MEDICAL REPORTS – DR'S NAME	DATED
1. GEORGE THABIT, M.D.	12/21/09 (2 reports), 12/12/09 (2 reports), 08/05/05, 06/30/04, 06/28/04, 09/30/03, 03/22/00, 12/14/99, 09/15/99, 02/09/98, 06/24/97
2. KENNETH BATTAGLIA, M.D.	11/25/09, 11/24/09, 05/15/08 (2 reports)
3. HOWARD SUTKIN, M.D.	11/16/09 (4 reports), 11/11/04 (2 reports), 08/31/03
4. ERIC CARLBLOM, M.D.	04/24/09 (7 reports), 04/19/04, 09/30/03, 08/30/03
5. JONATHAN NG, M.D.	10/09/09, 09/23/09 (4 reports), 08/17/09
6. EMEKA NCHEKWUBE, M.D.	01/30/08 (2 reports), 08/27/03, 08/15/00
7. LAWRENCE CHEN, M.D.	10/08/07
8. FAUZIA BASIT, M.D.	10/08/07
9. JOHN COSTOUROS, M.D.	01/26/07
10. SATISH SHARMA, M.D.	01/03/07
11. RAVINDER SOHAL, M.D.	06/17/04
12. RONALD JOSEPH, M.D.	04/19/04
13. MARK LARSEN, M.D.	02/20/04 (2 reports)
14. LAURENS SUE, M.D.	09/19/03
15. LEANELLE GOLDSTEIN, M.D.	09/03/03
16. SCOTT WERDEN, M.D.	07/21/03
BARRY ROBBINS, M.D.	11/13/02
MURRAY SOLOMON, M.D.	08/18/99
ARTHUR HOLMBOE	12/15/98
MEDOLY OW, PAC	06/18/97
GRADY JETER, M.D.	04/23/96, 10/24/91, 04/08/91
RAVI NAYAK, M.D.	06/06/94
GLAYS LO, M.D.	10/05/92
PAUL ANDERSON, M.D.	09/18/92

JERRY HANSON, M.D.	09/17/91
KEITH FORD, M.D.	04/23/91
JEROME CHESTER, M.D.	04/15/91

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	04/15/10

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

- b. **Rick Martinez**, Retired Police Lieutenant, Police Department. Request for change in status to Service-Connected Disability Retirement effective December 12, 2009; 28.62 years of service. Mr. Martinez was present and represented by Attorney *Jim Jeffers*. The following reports were presented to the Board:

MEDICAL REPORTS -- DR'S NAME	DATED
JOHN SMITH, M.D.	5/19/09, 11/19/09 (2), 9/8/09, 5/19/09, 2/24/09, 6/30/08(3)
CHARLES TUFFLI, M.D.	6/9/05, 5/9/05
JONATHAN NG, M.D.	1/28/05, 1/26/05 (2), 12/11/04

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	4/6/10

(M.S.C. Taylor/Kaldor) Motion to approve. 4-2-0 (Liccardo/Johnson - No)

- c. **Wilfredo Montano**, Retired Police Lieutenant, Police Department. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 27.73 years of service. Mr. Montano was present and represented by Attorney *Jim Jeffers*. The following reports were given to the Board:

MEDICAL REPORTS -- DR'S NAME	DATED
JOHN SMITH, M.D.	08/14/2009 (2 RPTS); 06/16/2009
JONATHAN NG, M.D.	03/13/2009
CHARLOTTE HU, M.D.	12/30/2008 (3 RPTS)
HIEN THAI NGUYEN, M.D.	05/09/2008
VALARY KWAI BEN, M.D.	04/14/2008; 01/05/2005
G.H. CRAWFORD, M.D.	10/15/2004

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	06/04/2010

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

- d. **John P. Quayle**, Retired Police Officer, Police Department. Request for change in status to Service-Connected Disability Retirement effective January 31, 2005; 25 years of service.
This item is Deferred at the applicant's request.

- e. **Richard P. Sanchez**, Retired Police Officer, Police Department. Request for change in status to Service-Connected Disability Retirement effective December 1, 2007; 26.79 years of service. Mr. Sanchez was present and represented himself. The following reports were received:

MEDICAL REPORTS -- DR'S NAME	DATED
1. MICHAEL NEWMAN, D.C.	01/26/10 (2 REPORTS), 01/21/10, 03/05/08 (2 REPORTS) 07/12/07
2. HAMID MEHDIZADEH, M.D.	01/25/10 (2 REPORTS), 08/20/08, 03/05/08 (2 REPORTS), 04/06/07, 03/12/07, 09/18/06, 07/11/06, 06/23/06, 06/09/06
3. JOHN ROLLINS, M.D.	01/25/10 (2 REPORTS), 09/29/08, 09/02/08, 03/12/08 (2 REPORTS), 01/10/08, 08/07/07, 07/19/07, 05/22/06
4. STUART MASS, M.D.	07/24/07 (5 REPORTS)
5. DAVID KRAMER, M.D.	06/25/07
6. KENNETH ONG, M.D.	04/13/07
7. KEITH FRAKER, M.D.	04/06/07, 09/18/06, 06/09/06
8. JAMES VAUDAGNA, M.D.	03/12/07
9. ALI SOOZANI, D.O.	06/21/06
10. MARK COLTON, M.D.	06/02/06

11. JOHN KAO, M.D.	12/05/02
12. TRAM NGUYEN, M.D.	08/14/02
13. AFTIM SABA, M.D.	01/26/00
14. JEFFREY COE, M.D.	03/31/99, 04/21/98, 08/11/1997
15. MURRAY SOLOMON, M.D.	02/12/98
16. JEFFREY FERBER, D.C.	01/08/1998
17. RENEE OWNBEY, D.C.	12/03/1997
18. JEROME CHESTER, M.D.	05/28/1995

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	04/17/10

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

- f. **David Santiago**, Retired Police Officer, Police Department. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 28.00 years of service. Mr. Santiago was present and represented himself. The following reports were received:

MEDICAL REPORTS – DR'S NAME	DATED
MICHAEL NEWMAN, M.D.	1/15/2010 : 5/21/09 : 5/20/09 : (10 REPORTS) : 2/4/09 : 1/8/09 : 1/7/09
RANDALL SEAGO, M.D.	4/7/09
EMEKA NCHEKWUBE	7/24/08 : 4/11/07 : 2/15/07 : 8/3/06 : 3/8/06
ERNEST MADARANG, M.D.	7/31/06
MICHAEL TEKAUTZ, M.D.	2/7/06
RENEE OWNBEY, D.C.	1/28/06 : 12/24/04 : 9/3/04 : 6/26/03 : 8/4/00 : 12/30/98 : 5/13/98 (TWO REPORTS) : 8/15/97 : 3/20/97 : 6/14/95
ANTHONY TRUJILLO, D.C.	9/30/96
DREW SULLIVAN, M.D.	6/30/95
RICHARD WEBSTER, D.C.	10/2/90

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	5/17/2010

Discussion was held regarding the timeline of his injuries and whether or not they directly led to his current disability. Discussion was also held regarding the applicant's service retirement prior to the date his treating physician stated he could return to work.

(M.S.C. Liccardo/Herrera) Motion to deny. 5-1-0 (Bacigalupi - No)

- g. **Thomas Warren**, Retired Fire Engineer, Fire Department, Request for change in status to Service-Connected Disability Retirement effective June 30, 2009; 25.01 years of service. Mr. Warren was present and represented by Attorney *Sam Swift*. The following reports were received:

MEDICAL REPORTS – DR'S NAME	DATED
1. PATRICK MCCREESH, M.D.	11/6,09 (X2), 8/6/09, 10/6/09, 9/27/09 (X4), 2/26/09
2. MURRAY SOLOMAN, M.D.	6/8/09
3. JUDITH PETO, PA-C	6/17/09
4. WILLIAM MARTIN, M.D.	5/4/09, 4/20/09, 3/16/09, 11/3/08
5. STELL DAO, M.D.	3/18/09, 10/14/08, 10/8/08, 9/24/08 (X2)
6. ROBERT BURGER, M.D.	9/25/08
7. HOM WOO, M.D.	9/17/08
8. CRAIG WALL, D.O.	9/16/08
9. DAVINA GROVER, M.D.	9/12/08
10. PETER YIP, M.D.	9/12/06, 11/30/06
11. JEFFREY COE, M.D.	2/26/93
12. HAMID MEDIZADEH, M.D.	10/9/92, 6/21/92
13. STUART MASS, M.D.	9/29/92
14. STEPHEN TENG, M.D.	9/21/92
15. MARK MCNOWN, D.C.	11/14/91, 6/14/88

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
Dr. Rajiv Das	5/12/10

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

4. Deferred Vested

- a. **Ruben Chavez**, Police Lieutenant, Police Department, effective July 15, 2010; 28.09 years of service. (M.S.C. Taylor/Herrera) Motion to approve. 6-0-0
- b. **Stephen B. Gallagher**, Police Officer, Police Department, effective September 2, 2010; 22.05 years of service. (M.S.C. Taylor/Liccardo) Motion to approve. 6-0-0
- c. **Nicolas Edward Thomas**, Deputy Fire Chief, Fire Department, effective July 22, 2010; 29.02 years of service. (M.S.C. Kaldor/Taylor) Motion to approve. 6-0-0

DEATH NOTIFICATIONS (Moment of Silence)

The items listed below are Note and File

5. Notification of the death of Virginia Adams, Retired Police Officer, retired 6/14/77, died 4/23/10. Survivorship benefits to Roy B. Adams, spouse.
6. Notification of the death of James H. Cornelius, Police Sergeant, retired 8/10/85, died 4/14/10. Survivorship benefits to Tanya Cornelius, spouse.
7. Notification of the death of Bill F. Wiskel, Retired Police Officer; retired 2/6/96, died 4/9/10. No survivorship benefits.

NEW BUSINESS

8. **Approval of change of Retirement date for Keith Keesling from June 30, 2010 to June 27, 2010.** (M.S.C. Herrera/Taylor) Motion to approve. 6-0-0
9. **Approval for the Secretary to negotiate and execute the Second Amendment to the agreement with Palo Alto Medical Foundation for exit physicals to:**
 - a. **Increase the agreement amount by \$40,000, for a total not-to-exceed agreement amount of \$261,025.**
 - b. **Extend the term of the agreement through December 31, 2010; provide a maximum amount for compensation payable for the period July 1, 2010 through December 31, 2010 of \$69,000 for a total new not to exceed amount of \$330,025.**

Trustee Herrera asked how the exit physical benefits were established. She suggested a review of what parts of the exit physical are covered by insurance and a review of the cost commitment.

Ms. Rodriguez explained that the Board granted the benefit in 1999 and some of the exit physical services are covered by insurance so it may be worthwhile to review the benefit and decrease the services offered to those that are not covered by insurance.

Chair Bacigalupi stated that the contract will expire prior to the next Board meeting. Therefore, he recommends that the Board approve the extension but direct staff to bring the issue back at the August Board meeting for further discussion.

Trustee Liccardo requested an opinion from legal counsel as this benefit was not negotiated but granted by the Board.

Chair Bacigalupi asked if the contract can be canceled at any time.

Ms. Dent explained that most standard City contracts have 7-30 day notice of termination. This contract has a 30-day notice, but part of the extension amendment can be to shorten the notice to 7 days. (M.S.C. Liccardo/Herrera) to approve the second amendment, to bring the issue back to the Board in August for further discussion, and to modify the contract to include a 7-day notice of termination, and for the City Attorney's Office to report back to the Board with an opinion on the legality of the benefit. 6-0-0

10. **Approval for the Secretary to negotiate and execute the third amendment to the agreement with the Segal Company for an amount not-to-exceed \$775,000 and discussion regarding the issuance of a Request for Proposals for fiscal year 2011/2012 actuarial services.**
The Board discussed the third amendment and the issuance of a Request for Proposals for fiscal year 2011-2012. (M.S.C. Liccardo/Herrera) to approve the third amendment not-to-exceed amount of \$775,000 with the hourly rates and fixed prices brought back to the baseline in the existing contract and to direct staff to request a 5% reduction with a minimum reduction of 3% in hourly rates and fixed prices. If the 3% reduction is not accepted, the issue to be brought back to the Board in August. 6-0-0
11. **Discussion and adoption of the Placement Agent Policy.**
(M.S.C. Johnson/Taylor) Motion to approve. 6-0-0
12. **Discussion and notification regarding the administrative implications to the retirement contribution provisions of the City's Retirement Plan.**
This item is Note and File
13. **Review of proposed ordinance amending Part 2 of Chapter 3.36 of Title 3 of San Jose Municipal Code by adding a Section 3.36.205 to exclude from membership in the Police and Fire Department Retirement Plan a Fire Chief or Police Chief who has no prior service credit in that Plan; and provide recommendation to City Council on proposed ordinance pursuant to San Jose Municipal Code Section 3.36.485.**
(M.S.C. Herrera/Johnson) to support recommendation to City Council to approve the ordinance. 5-1-0 (Bacigalupi - No)
14. **Oral update on Committee Assignments.**
Chair Bacigalupi announced that *Trustee Taylor* would replace former *Trustee Keesling* on the Investment Committee and that *Trustee Kaldor* would replace former *Trustee Keesling* on the Real Estate Committee.

OLD BUSINESS/CONTINUED - DEFERRED ITEMS

15. **Oral update on City Auditor's projects.**
Ms. Erickson stated that one of the projects the City Auditor's Office is working on is the Pension Sustainability audit. Given the difficulty in defining sustainability, her office will instead be compiling and providing background information to the Board. The next steps for this project are continuing the analysis of the 30-year background information, completing the research of other jurisdictions, and finishing the fieldwork over the summer. She anticipates an audit report will be ready in the Fall.

The second project in progress is the audit of disability retirements. The purpose of this audit is to assess potential factors leading to a high disability rate in San Jose. Her office is reviewing the last 10 years of approvals, denials, and changes in retirement status and obtaining an understanding of the process, definitions, standards, and financial advantages and incentives of disability retirements. In addition, her office is interviewing Board members on a voluntary basis to understand what factors they consider before approving a disability retirement and what training the trustees receive on the disability retirement process. The fieldwork should be completed over the summer with an audit report ready in the Fall.

In regards to the annual financial audit, the contract is complete and entrance conferences are being held with staff. The auditors should complete bulk of audit work by the end of September with issuance of the City's CAFRs sometime afterwards.

16. Update on FLSA Pensionable Earnings Issue.

Ms. Niebla stated that Macias Gini O'Connel (MGO) is in the final stage of their work and should have a report presenting their findings on the FLSA to the Board in August.

Trustee Kaldor asked if MGO would have identified issues, resolved them, and have an action plan with specific dates and timelines or present more of an assessment of the issues.

Ms. Niebla responded that in August MGO will present their findings on their review of the City's FLSA correction.

Trustee Kaldor asked whether the City had performed its person-by-person, line by line review, and, if so, will MGO determine if that is acceptable or there are issues.

Trustee Johnson asked if the auditors are finding any areas that need to be corrected and, if so, is staff working on corrections that the auditors have identified.

Ms. Niebla stated that once MGO provides the summary, staff will coordinate with the Finance Department to review the issues and prepare proposed corrections from a staff perspective.

17. Discussion and action on the Final compensation for pension calculation purposes.

Ms. Dent stated that the Board asked for an explanation of the final compensation calculation in the San Jose Municipal Code. Her memorandum explains the development of the calculation language currently in the code and provides examples demonstrating the calculation.

Trustee Taylor asked if the language is a drafting error and if this issue is going to be referred to the POA or the Local 230.

Ms. Dent responded that, if the Board determines it is a drafting error and there was no intent to change the 1970 language, then it would be appropriate to notify the City Council and the employee bargaining representatives. There was nothing she could see in the history of the calculation that indicates there was an intent to change the language. The change in language affects those who did not have their highest compensation in their last year of service.

Trustee Kaldor asked how many people were impacted because of the language change. In addition, were members overpaid or underpaid.

Ms. Dent stated that Pension Gold, pension administration software, is setup to take into account the code language, so there would not be an overpayment or underpayment issue.

Ms. Busse stated that this issue originated with a member being adversely affected and requesting that the city attorney review the issue. If it was a drafting error, the member wanted to know if it was possible to calculate final compensation using the language as written prior to the drafting changes.

Ms. Dent stated that the Board could refer this issue to the City Council and the employee bargaining representatives for their acknowledgment that it was a drafting error and request that the error be corrected.

Trustee Liccardo departed the meeting at 10:46 a.m.

Trustee Kaldor stated that there is evidence enough to warrant exploring if it was a drafting error. However, the Board follows the Municipal Code. This issue should be referred to the City Council and the Bargaining Groups with some indication as to how many members it affects.

Chair Bacigalupi stated that the Board has the City Attorney's memorandum. The next steps are to agendaize this issue for the August meeting for further discussion and to refer it to the City Council and the Bargaining Units for their review. Let them confer and come back to the Board with comments.

(M.S.C. Herrera/Kaldor) Approval to provide a copy of the City Attorney's memorandum to the City Council and the employee bargaining groups and to notify them that the Board is discussing this issue at the August meeting and they are invited to address the Board on the issues outlined. 5-0-1 (Liccardo – Absent)

18. Update on outside counsel for tax qualification review.

Ms. Dent stated that Ice Miller is currently under contract and had their first conference call with staff. Staff provided Ice Miller with a number of documents for them to start their review. Staff is planning to have Ice Miller present to both the Federated and Police & Fire Boards possibly in September.

19. Update on Board Governance change.

Ms. Dent explained that the tentative date for the ordinance to go to the City Council for first reading on June 22, 2010 and then come to the Police & Fire Board and the Federated Board for recommendation in August. After review and recommendation by both Boards, the ordinance would go back to the City Council for second reading for an effective date of sometime in September.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS

20. Investment Committee(Bacigalupi/Johnson/vacant/Alternate: Liccardo)

Next meeting June 17, 2010.

21. Investment Committee of the Whole

Next meeting August 19, 2010.

CONSENT CALENDAR (Items 22 through 29)

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

22. Approval of Minutes

Monthly meeting held May 6, 2010.

23. Approval of Travel/Conference Attendance

Trustee Taylor pulled item 23a.

24. Approval of Monthly Expenses

P&F Plan Expenses for April 2010.

25. Pending Action

Updated List as of June 2010.

26. Benefits Review Forum

Summary of meeting held April 28, 2010.

27. Return of Contributions

- a. Voluntary - None.
- b. Involuntary - None.

28. Investments

- a. Adoption of Resolution Number 3669 for the period March 1 through March 31, 2010.

29. Communication/Information

- a. Report on Investments as of March 31, 2010.
- b. Sacramento Bee Article.
- c. Legal Updates.
- d. Prefunding letter from Segal.
- e. GFOA Certificate.

Trustee Taylor stated that he was going to SF for training in July and it was not listed on the agenda.

Ms. Dent stated that she would review the policy to determine if Trustee Taylor's training can be placed on the August agenda, as there is no meeting in July.

Proposed Agenda Items - None

Public Comments

Darryl Von Raesfeld, fire chief for city of San José, stated that, as he is going through his retirement process, he has been impacted by Section 415 of the Internal Revenue Code. Six years ago, the Board passed a draft ordinance concerning section 415(m) and he has been working with the City Attorney's Office to work through these issues. He would like the Board to follow-up on the status of the ordinance and what happened to it as it was deferred to OER to talk with Bargaining Groups and City Administration. A separate Section 415(m) plan is the solution for higher salary ranges and common among PERS and other defined benefit plans.


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

Education and Training

The below item is Note and File

30. 2010 Training Opportunities.

ADJOURNMENT at 11:01 A.M.



DAVID BACIGALUPI, CHAIR
BOARD OF ADMINISTRATION

ATTEST:



RUSSELL U. CROSBY, SECRETARY
BOARD OF ADMINISTRATION