

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

December 6, 2007

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:37 a.m., on Thursday, December 6, 2007, in regular session in the Department of Retirement Services' Conference Room, 1737 North First Street, Suite 600, San José, California.

ROLL CALL

Present:

MARK J. SKEEN

KEN HEREDIA

BRET MUNCY

BILL BRILL

SCOTT JOHNSON

FORREST WILLIAMS

DAVE CORTESE

CHAIR

VICE CHAIR

Trustee

Trustee

Trustee (via telephone)

Trustee

Trustee (Arrived 8:55 am)

ALSO PRESENT:

Russell Crosby

-SECRETARY

Tom Webster

-Staff

Susan Devencenzi

-City Attorney

Debbi Warkentin

-Staff

Russell Richeda

-Saltzman & Johnson

Tamasha Johnson

-Staff

Amanda Ramos

-Staff

Jim Jeffers

-Attorney

Judy Powell

-Staff

Donna Busse

-Staff

Ron Kumar

-Staff

Rhonda Snyder

-Staff

Susan Perriera

-Staff

Mike Rosingana

-Retirees Assoc

Rajiv Das

-Board Doctor

Marty Hogan

-POA

Carol Bermillo

-Staff

Bruce DeMers

-PF Retirees

Udaya Rajbhandari

-Staff

Roger Pickler

-Staff

Randy Sekany

-Local 230

Eric Ramones

-SJFD

Andy Yeung

The Segal Company

Paul Angelo

The Segal Company

George Vega

-SJFD

Chris Platten

-L230 Attorney

Karin Carmichael

-Staff

Mike Moffett

-Fire retiree

Colleen Hy

-Staff

John Tennant

-SJPOA Attorney

Allen Dye

-SJPD

Aracely Rodriguez

-OER

Bob Cocilova

-Fire retiree

Bill Thomas

-SJREA

Thomas Boyle

-Attorney

Brian Long

-SJPD

Jim O'Keefe

-SJPD

Sandra Holloway

-SJPD

Lt. Dale Morgan

-SJPD

Sam Swift

-Attorney

REGULAR SESSION

ORDERS OF THE DAY

Chair Skeen called the meeting to order at 8:37 a.m. He announced that Item 6, and Item 10 "a" and "b" would be heard first, and the remainder of the agenda will be heard in order.

(Out of Order)

6. Election of Board Chair and Vice Chair for 2008.

Chair Skeen turned the meeting over to Vice-Chair Heredia.

(M.S.C. Brill/Muncy) to approve re-election of Mark Skeen as the Board Chair. Motion carried 5-0-1-1.
(Cortese absent, Skeen abstained)

Vice-Chair Heredia turned the meeting back to Chair Skeen.

(M.S.C. Brill/Muncy) to approve re-election of Ken Heredia as the Board Vice-Chair. Motion carried 5-0-1-1.
(Cortese absent, Heredia abstained)

10. Lowest Cost Medical Plan:

a. Action on Attorneys' memos re: Board's authority to determine lowest cost health plan.

Ms. Devencenzi stated she reviewed the Plan document to determine the lowest cost plan. The Plan is written such that it will pay the amount equal to the lowest cost plan available to active employees. She further noted that there are 10 different levels of plans, and there is a possibility of having tiered medical plans soon. Currently, the lowest cost plan is the medical plan with the lowest premium per month, which makes the new Kaiser Co-pay plan the lowest cost plan.

Mr. Richeda added that the terms of the Municipal Code need to be interpreted because the main term "lowest cost medical plan" is defined as an eligible plan, but there is no definition for the term "eligible plan". Someone has to interpret the language, which he has reasoned is within the Board's purview.

Mr. Tennant declared that Local 230 has filed a demand for clarification and a grievance regarding the City Attorney's opinion. He thought the Municipal Code's language was defined through the collective bargaining process, and feels there needs to be a remedy for the responsibility the Board takes on.

Member Johnson asked who has the authority to interpret the Code language, and where has that authority been established?

Ms. Devencenzi reiterated the City Charter states that the City Attorney's office provides legal services and interpretation to all City Commissions and Boards, and believes that the language is what was agreed to by the bargaining groups at the time the Plan was implemented in 1984. Originally, retirees paid the same amount as actives in the same classification, which changed to the lowest cost plan in 1997 through arbitration and was enacted in 1998. Since then all Plans for active employees are reviewed, then the one with the lowest premium is deemed the lowest cost plan, which generally has been Kaiser.

(M.S.C. Heredia/Muncy) to adopt Russell Richeda's memo dated 11/11/07 on the Board's authority to decide the lowest cost plan. Motion carried 6-1-0. (Johnson-No)

b. Determination of lowest cost health plan.

Mr. Richeda concluded that the Board should review all City employee group plans that are available, and consider a possible legislative fix that may be a better path to take. He noted the Board has authority to make recommendations to City Council. This current situation is a result from negotiations that had unintended effects. Perhaps the City Council could change the Plan documents, and could have it retroactive to January 2008.

Mr. Sekany spoke to the unintended effects, but certain wording was placed in the plan during negotiations for other reasons.

Member Heredia added that there will be some impact on retirees, especially those outside of the Kaiser coverage areas. This needs to be thought through so that only one change is made, not make one change and then come back and change something else. He also said that legislative and bargaining history does not constitute that lowest cost plan has to be the cheapest one.

Chair Skeen asked legal counsel if there were any conflict of interest or 1090 issues at the present time.

Mr. Richeda replied that counsel's response to a question regarding conflict of interest or the 1090 issue must be in writing, and he would prefer to have the time to interpret and supply a memo with his opinion to the Board for the special meeting occurring on December 20, 2007.

Mr. Platten stated that Local 230 is prepared to meet anytime to resolve issues regarding the lowest cost plan. Local 230 is prepared to file a grievance and take legal action if necessary.

Member Cortese requested that the Attorney's opinions be broad enough that all people can understand the information.

(M.S.C. Heredia/Muncy) to have Ms. Devencenzi and Mr. Richeda prepare a joint memorandum, if possible, on potential conflict of interest and 1090 issues for the Board. Motion carried 7-0-0.

(Back on Agenda)

1. RETIREMENTS

Service

a. Gene Kischmischian, Officer, Police Department. Request for Service Retirement effective December 1, 2007; 26.84 years of service. **(SCD Pending)**

(M.S.C. Heredia/Muncy) to approve application. Motion carried 6-0-1. (Williams exit 9:10 am)

b. Nicholas M. Muyo, Sergeant, Police Department. Request for Service Retirement effective December 15, 2007; 27.22 years of service.

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

c. Charles T. Younis, Assistant Chief, Police Department. Request for Service Retirement effective December 8, 2007; 29.17 years of service.

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

d. Louis P. Zapata, Officer, Police Department. Request for Service Retirement effective November 3, 2007; 26.15 years of service. **(SCD Pending)**

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

2. Disabilities

a. Gary B. Getreu, Sergeant, Police Department. Request for Service-Connected Disability Retirement effective December 6, 2007; 21.20 years of service.

Sergeant Getreu 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>
John Smith	9/14/07; 9/13/07 (2x); 7/12/07; 6/5/07; 5/10/07; 4/27/07; 2/3/04; 4/16/03; 12/10/99
Gordon Katske	4/28/07; 4/27/07
Biruh Workeneh	4/21/07
John O'Brien	9/4/03; 9/21/98; 12/30/97
Jonathan Ng	10/30/98; 8/10/98; 6/22/98
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/8/07

Mr. Jeffers described the injuries Sergeant Getreu sustained, and stated that the Department does not have any modified duty positions available to him.

(M.S.C. Brill/Muncy) to approve application. Motion carried 5-0-2. (Williams, Cortese exit 10:10 am)

b. *Martin P. Hogan*, Officer, Police Department. Request for Service-Connected Disability Retirement effective December 6, 2007; 18.80 years of service.

Officer Hogan was present and was represented by *Mr. Boyle*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Robert Verrette, DPM	9/9/07
Murray Solomon	3/28/06
Thomas Kula Jr.	3/23/05
Mark Larsen	2/24/05
Tripta Sachdev	2/10/05
Thomas Elardo, DPM	6/18/04; 1/15/04
Aaron Hammons, DC	12/17/03; 2/4/02; 7/6/01
Drew Sullivan	10/16/02
Walter Silberman	7/16/01
Tony Yuan	7/1/01
Raul Guisado	4/11/00; 3/15/00
Aron Judkiewicz	3/21/00
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/15/07

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

c. *James P. O'Keefe*, Officer, Police Department. Request for Service-Connected Disability Retirement effective December 6, 2007; 29.70 years of service.

Officer O'Keefe was present and represented himself.

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

<u>Doctor's Name</u>	<u>Report Date</u>
William Stearns	10/24/07 (8 rpts); 6/06/07; 7/18/02 (2 rpts); 10/15/01; 6/20/01; 6/24/98; 6/21/94; 11/15/91

Eric Tsao	6/17/02
Mark Culton	6/8/01
Walter Silberman	9/14/95
Stanley Harmon	9/12/95
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/14/07

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

d. *Richard Zehring*, Officer, Police Department. Request for Service-Connected Disability Retirement effective December 6, 2007; 12.19 years of service.

Officer Zehring was present and was represented by *Mr. Boyle*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Jerry Callaway	10/24/07 (2 rpts); 4/26/07; 10/26/06; 7/25/06; 3/30/06
Renee Ownbery, DC	9/26/07; 9/12/07; 2/24/06; 11/2/05; 5/26/05
Norman Panting	1/30/07; 12/18/06; 5/12/06
Michael Leong, JMD	4/28/04; 4/16/04; 6/27/03
Lawrence Chan	4/19/04; 3/26/04
James Vaudagna	10/29/02
Patricia Wilson, PA-ER	8/5/02
Murray Solomon	4/7/04
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/14/07

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

3. Change in Status

a. *Jesse Chacon*, Retired Firefighterr. Request for a change to Service-Connected Disability Retirement effective January 27, 2007; 30.73 years of service.

Retired Firefighter Chacon was present and was represented by *Mr. Swift*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Gerald Keane	4/27/07; 12/15/06; 12/4/06; 5/15/06; 10/24/05; 9/13/05; 1/20/05; 11/1/04; 9/30/04; 5/21/02; 2/19/02; 3/31/95; 10/28/94; 12/12/89; 7/13/89; 6/1/89; 4/13/89
Allen Kaisler-Meza	3/31/06; 1/25/06
Brad M. Piatt	9/22/05
John Colman	10/11/90
Nora Tani, OTR	3/26/90; 3/12/90
Thomas Roberts	3/16/89; 2/1/88
David Gilkey, DC	1/6/89; 12/29/88; 11/21/88
David Gross	12/15/88
Barbara Hastings	12/6/88

Charles Rollis, BS, DC 5/31/88; 1/9/85

<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	10/17/2007

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

b. Felipe V. Gonzalez, Retired Fire Prevention Inspector. Request for a change to Service-Connected Disability Retirement effective January 15, 2005; 31.64 years of service.

Retired Fire Prevention Inspector Gonzalez was present and was represented by *Mr. Swift*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Patrick McCreesh	7/11/07 (7 rpts); 10/7/04; 8/9/04; 8/14/03
Ronald Fujimoto, DO	1/11/06; 8/16/05
Eugene Della Maggiore	8/13/05; 4/12/05; 12/22/04
David Kramer	11/26/04; 9/27/93
Mark Culton	11/24/04
Lester Brodie	9/28/04
Gary Zoellner	1/15/96; 11/8/94; 9/27/93; 12/8/88; 10/5/88; 6/27/88; 10/27/86; 7/3/86; 6/17/86
Eric Trefelner	10/14/94
William Brose	7/21/92
P. Andrew Clifford, PHD	6/2/92
Jeff Gutman	4/13/89
S. Mills	7/10/86
Mary Gibbs, DC	6/16/86
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/9/07

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

c. Vincent A. Sciortino, Retired Fire Captain. Request for a change to Service-Connected Disability Retirement effective July 14, 2007; 25.56 years of service.

Retired Fire Captain Sciortino was present and was represented by *Mr. Swift*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Fulton Chen	7/16/07; 5/7/07 (2 rpts); 4/3/06; 1/10/06; 1/27/04
Joseph Grant	6/30/06
Philip Chyu	5/16/06; 4/30/06
James Fontaine	5/16/05; 9/2/04
Jonathan Posin	5/9/05
Kenneth Venos	9/8/04; 7/7/04; 5/11/04; 3/31/04

George Batten	5/25/00; 12/15/99 (2 rpts); 8/28/99; 9/30/99; 8/12/97 (2 rpts); 12/11/96; 11/26/96
Allen Hayener	10/11/99
Daniel Smith	2/12/98; 12/10/97; 10/31/97
Frank Ruys	9/30/93
John Horowitz, DC	3/13/89
Jeryl Wiens	9/24/87
Ronald Caruso	7/16/87
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	11/13/07

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

d. George M. Vega, Retired Battalion Chief. Request for a change to Service-Connected Disability Retirement effective January 27, 2007; 25.40 years of service

Retired Battalion Chief Vega was present and was represented by *Mr. Swift*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Patrick McCreesh	4/1/07; 8/24/06 (2 rpts); 7/6/06; 1/19/06
Mark Culton	10/24/06; 2/4/02
Robert Millard	10/3/06; 8/15/06; 7/24/06;; 5/30/06; 3/21/06; 4/29/05; 1/12/05; 12/16/04; 4/1/04
Scott Wachhorst	6/23/06; 4/22/05; 3/6/05
Lawrence Chan	3/9/06; 4/14/05 (2 rpts)
Mark Eastland, DC	8/7/04; 11/15/03
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	10/10/2007

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

4. Deferred Vested

a. Gerald Kohlmann, Former Battalion Chief. Request for Deferred Vested Benefits effective December 30, 2007; 23.245 years of service

Mr. Webster clarified the applicant has reciprocity, so this is not an early retirement.

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

5. DEATH NOTIFICATIONS

a. Notification of the death of Richard F. Boone, Retired Police Officer; retired 5/25/90, died 10/11/07. Survivorship benefits paid to Margaret Boone, spouse.

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

b. Notification of the death of Merle W. Johns, Retired Sergeant; retired 9/1/91, died 10/13/07. No survivorship benefits to be paid.

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

c. Notification of the death of Edward T. Steele, Retired Fire Captain; retired 4/7/85, died 10/15/07. Survivorship benefits paid to Shirley J. Steele, spouse.

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

NEW BUSINESS

7. Authorization for Board Actuary, The Segal Company to proceed with the special studies (3% at 20 years and increased survivorship benefit to a maximum of 45%) on Police Member Retirement Benefit Improvement for a cost not to exceed \$7,000.00.

Mr. Tennant stated that the union negotiated an effective date of July 1, 2008.

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

8. Approval of Segal's GASB 43/45 Actuarial Valuation Timing Schedule and authorization to increase the budgeted amount by \$20,000 for an amount not to exceed \$40,000.00.

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

9. Approval of an operating budget for the Solutions to Retiree Healthcare Committee for possible future expenses for an amount not to exceed \$25,000.00 (To be split 50/50 with the Federated Retirement System).

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

9a. Approval of Solutions to Retiree Healthcare Committee's recommendation to add HR Director Mark Danaj as a member of the committee

Chair Skeen stated he has provided to both Boards a memo which the Solutions to Retiree Healthcare Committee received from Debra Figone, City Manager, and stated that the Committee has approved a recommendation to add Mark Danaj as a representative for the City Manager's office on the Committee.

Member Heredia expressed dismay regarding the City Manager's office lack of outreach to retirees on healthcare discussions.

Mr. Sekany stated Local 230 received a memo that the California Labor Alliance (CLA) was working in concert with the City Manager's office collaboratively. He wants to make it clear that Local 230 is not a part of that effort.

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

OLD BUSINESS / CONTINUED ITEMS

11. Approval of results of Segal's Experience Study and Demographic assumptions for the period ending 30 June 2007. (Presented at 10/15/07 Retreat and November Board Meeting).

Mr. Yeung reported that the Board can approve the assumptions without the GASB part because the "lowest cost plan" is a factual issue, not an actuarial assumption, so it will be added into the report once Segal receives direction from the Board.

Mr. Sekany requested the Board to direct the actuary to do a special assumption based on a retirement at exactly 30 years of service. He indicated that Local 230 may be looking into a Deferred Retirement Option Program (DROP).

Mr. Yeung stated Segal is the actuary for two systems that have DROP plans – Los Angeles' Police and Fire Plan, and Fresno's, so they are very familiar with that structure. However, this Plan does not have enough experience to be sufficient to predict retirements, and this may not be the best time to change assumptions, as the Plan needs time to allow the present changes to settle.

Mr. Platten suggested that there could be a probable impact from the arbitrated changes made, and noted that Segal uses an assumption based on the age component and not the service component.

Mr. Yeung responded the structure of the data provides for the service component, but they will look at the suggested methodology and the current one used. Segal will provide a letter to show how the service and age assumption rates are set, and will explore the service component to see if a change in assumptions would create a difference.

(M.S.C. Brill/Muncy) to approve results of Segal's experience study and the assumptions with Kaiser Co-Pay as the lowest cost plan. Motion carried 5-0-2.

12. Approval of proposed ordinance amending the P&F Retirement Plan to permit members employed by the Fire Department to redeposit withdrawn contributions and purchase certain service credit, and approval to refer ordinance to Plan's actuary, The Segal Company, for verification of cost neutrality for the City and the Plan.

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

13. Request for extension of Over-Strength Analyst I/II for an additional six months ending June 30, 2008, for an amount not to exceed \$60,000 (split 50/50 with Federated Retirement System).

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

14. Oral update on the Sunshine Reform Task Force.

Ms. Devencenzi stated the current recommendations are that staff reports would need to be available 10 days prior to each meeting, and minutes would be approved at the next meeting. There still needs to be some clarification on the meaning of the terminology in the context of the judicial boards. However, Council has not recommended drafting of an ordinance at this time.

15. Approval of expenses paid for relocation of new Director of Retirement Services, Russell Crosby.

Member Heredia requested again to be provided the City's policy mandating the Board to pay for expenses.

Member Johnson stated that he believes there is a policy to that effect. The City Manager's office has the authority to process expenses for payment to the department conducting the recruitment and the fees are charged back to them.

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

STANDING COMMITTEE REPORTS/RECOMMENDATIONS

16. Investment Committee (Skeen, Heredia, Muncy)

a. Summary of meeting held 20 September 2007

Real Estate Committee (Skeen, Heredia, Muncy)

17. Summary of meeting held 20 September 2007

18. Summary of the following Board of Directors meetings held 20 September 2007:

- a.. 1737 N. First Street Corporation
- b. 3169 Dodd Road Corporation
- c. 3201 C Street Corporation
- d. 3301 C Street Corporation

Investment Committee of the Whole (Full Board) – last meeting 11/27/07

19. Solutions to Retiree Health Care Committee

a. Synopsis of Committee meeting held 26 October 2007

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

APPROVAL OF MINUTES

20. Monthly Board Meeting held 4 October 2007

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

PENDING ACTION LIST

21. Updated list as of 28 November 2007

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

BENEFITS REVIEW - None

CONSENT CALENDAR (Items 22-24)

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

PROPOSED AGENDA ITEMS

PUBLIC COMMENTS

EDUCATION & TRAINING

ADJOURNMENT

There being no further business, the **Chair** adjourned the meeting at 11:15 am.

MARK SKEEN, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

RUSSELL U. CROSBY, SECRETARY
BOARD OF ADMINISTRATION