

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Special Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

August 21, 2008

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:40 a.m., on Thursday, August 21, 2008, in a special session at Department of Retirement Services, 1737 N. First St, Suite 600 - San Jose, CA.

ROLL CALL

Present:

MARK J. SKEEN

KEN HEREDIA

BILL BRILL

FORREST WILLIAMS

SCOTT JOHNSON

CHAIR (VIA CONFERENCE CALL)

VICE CHAIR

Trustee

Trustee

Trustee

NOT PRESENT:

DAVE CORTESE

BRET MUNCY

Trustee (Excused)

Trustee (Excused)

ALSO PRESENT:

Russell Crosby

-SECRETARY

Russell Richeda

-Saltzman & Johnson

Tamasha Johnson

-Staff

Bruce DeMers

-PF Retirees

Aracely Rodriguez

-OER

Carol Bermillo

-Staff

Jeanne Groen

-HR

Mollie Dent

-City Attorney Office

Debbi Warkentin

-Staff

Donna Busse

-Staff

Bill Thomas

-SJREA

David Bacigalupi

-Retiree

Deanna Santana

-CMO

REGULAR SESSION

ORDERS OF THE DAY

Vice-Chair Heredia called the meeting to order at 8:35 a.m.

RETIREMENTS

1. Ratification of the approval action taken at the August 7, 2008 meeting

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

Service

- a. **Allen L. Dye**, Police Officer, Police Department. Request for Service Retirement effective 12 July 2008; 20.19 years of service.
- b. **Francisco A. Estrada**, Police Officer, Police Department. Request for Service Retirement effective 9 August 2008; 25.39 years of service.
- c. **Kenneth R. Hernandez**, Firefighter, Fire Department. Request for Service Retirement effective 9 August 2008; 29.11 years of service.
- d. **William C. Murray**, Firefighter, Fire Department. Request for Service Retirement effective 9 August 2008; 29.14 years of service.

- e. **Joe R. Reyes**, Sergeant, Police Department. Request for Service Retirement effective 23 August 2008; 29.14 years of service.
- f. **Peggy Vallecilla**, Sergeant, Police Department. Request for Service Retirement effective 23 August 2008; 25.03 years of service.

Deferred Vested

- a. **Donna Tonry**, Former Police Officer. Request for Deferred Vested Benefits effective 28 July 2008; 11.42 years of service.

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

NEW BUSINESS

- a. Approval of request from Martha Juelson, ex-spouse of Fire Captain Robert Juelson, for a Reduced Lifetime Monthly Payment Option to be effective 2 July 2008 under Part 17, Section 3.36.3600 of the SJ Municipal Code.

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

OLD BUSINESS

(Out of Order)

- 3. Request for Board action on travel request by Vice Chair Heredia to attend IMN's 6th Annual Alternative Investment Summit to be held September 22 & 23, 2008 in Phoenix, AZ.

(M.S.C. Brill/Williams) to approve. Motion carried 4-0-2-1. (Abstain: Heredia, Absent: Skeen, Cortese)

(Back on Agenda)

- 2. Request for Board action on Lowest Cost Plan for the purpose of determining the medical insurance premium to be made by the Plan on behalf of retirees for coverage commencing 1 January 2009, from the medical benefits account established pursuant to SJ Municipal Code Section 3.36.1930.

Mr. Richeda stated the task for the Board is to decide what "lowest cost plan" means, so that requires interpreting sections 1930-1940 of the Municipal Code. Section 1930 defines lowest cost plan as an eligible medical plan as defined in section 1940, which does not provide a definition but instead defines the term by using the same term, i.e., eligible medical plan. The Board is accorded discretion to interpret that term, but the Board must exercise its discretion in a fiduciary-appropriate manner. The interpretation must be reasonable, consistent with the language of Municipal Code sections 1930-1940, and consistent with the legislative intent. At least 60% of City employees now have Kaiser Co-pay for themselves or they are eligible to select that plan, which is significant since that was not the case last November. He believes the lowest cost plan is the plan that the majority of active and retiree members are eligible for, which is now the Kaiser Co-pay plan. Kaiser has the lowest premium and is available to the majority of the membership.

Ms. Dent stated there were two previous opinions on 10/2007 and 11/2007 and the City Attorney's Office stands by its position of Kaiser Co-pay as the lowest cost plan and that the Code language is clearly defined without ambiguity. She stated there's no legislative history, but the intent would be the interpretation under the current facts as they are. She views part of the function of the City Attorney's Office is to provide interpretation of the City Code, and under the City Charter to advise counsel.

Vice-Chair Heredia stated there is legislative history regarding retiree healthcare. When the retiree healthcare was first enacted the retirees were to pay the same as actives, and also one can refer to the Farmquist letter.

Police members do not have the option to enroll in the Kaiser Co-pay plan currently, and when those members that are in the Kaiser plan now retire that plan will no longer be available to them as a retiree. The other issue is that retirees have no representation in negotiations, so many of them have to enroll in Medicare Part B and have to pay that premium. Many retirees are affected by disenfranchisement in certain areas, so perhaps it is appropriate to ask if there are methods to lower the impact on retirees, and to make the lowest cost plan available as members move away from the coverage areas. He did want to acknowledge and express his appreciation to the City Manager for delaying last November the effective date of the Kaiser Co-pay plan.

Mr. DeMers stated employees may pay co-pays, plus they get an extra 1% so that's easy, but a retiree does not get that extra 1% so it's expensive. Today the co-pay is \$10; what if a plan with a higher co-pay were to become the lowest cost plan, then what would happen to the retirees.

Chair Skeen exited

Ms. Rodriguez stated Police are currently in contract negotiations. She wanted to clarify that although employees receive raises they subsidize the retiree premiums. Also, not to lose sight of the COLA retirees receive each year of 3% to account for inflation.

Mr. Danaj stated the City Manager's Office had two views last November, one of outreach and the other being the perception that retirees were unaware of the change. There has been a year of providing notice regarding co-pays.

Member Williams stated analysis should be done to look at the impact of availability/access to medical coverage, which members have no control over accessing the lowest cost plan as pointed out by Vice-Chair Heredia.

Mr. Danaj stated retirees choose where to live and so may be impacted by a lowest cost plan available to employees of the City of San Jose/California.

Member Johnson stated the levels of benefits are based on negotiations. He believes we should think about the responsibility as fiduciaries to ensure this plan continues to be whole and available to beneficiaries. Employees share costs of the plan and are still faced with unfunded liability. It is important to collaborate so to continue benefits in spite of rising costs.

The Secretary stated staff can find out how many retirees are out of the coverage areas. He also stated that trouble areas are in Napa, Monterey, and Santa Cruz areas because physicians in those areas are expensive. (M.S.C. Brill/Williams) to declare Kaiser Co-pay plan as the lowest cost plan for plan year 2009. Motion carried 5-0-2.

ADJOURNMENT

There being no further business, **Vice-Chair Heredia** adjourned the meeting at 9:47 am.

KEN HEREDIA, VICE-CHAIR
BOARD OF ADMINISTRATION

ATTEST:

RUSSELL U. CROSBY, SECRETARY
BOARD OF ADMINISTRATION