

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

May 1, 2008

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:36 a.m., on Thursday, May 1, 2008, 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

FORREST WILLIAMS

SCOTT JOHNSON

CHAIR

VICE CHAIR

Trustee

Trustee

Trustee (Arrived 8:38 am)

Trustee

NOT PRESENT:

DAVE CORTESE

Trustee (Excused)

ALSO PRESENT:

Russell Crosby

-SECRETARY

Tom Webster

-Staff

Mollie Dent

-City Attorney Office

Debbi Warkentin

-Staff

Russell Richeda

-Saltzman & Johnson

Tamasha Johnson

-Staff

Amanda Ramos

-Staff

Donna Busse

-Staff

Ron Kumar

-Staff

Rhonda Snyder

-Staff

Mike Rosingana

-Retirees Assoc

Cion Garcia

-Staff

Rajiv Das

-Board Doctor

Carol Bermillo

-Staff

Bruce DeMers

-PF Retirees

Jeanne Groen

-HR

Udaya Rajbhandari

-Staff

Roger Pickler

-Staff

Ceara O'Fallon

-Staff

Maria Loera

-Staff

Andy Yeung

-The Segal Company

Ruben Torres

-SJFD

Karin Carmichael

-Staff

Randy Sekany

-L230

Aracely Rodriguez

-OER

Lt. John Carr

-SJPD

Michael Ryder

-Finance

Veronica Niebla

-Staff

Sandra Holloway

-SJPD

Dan Katz

-SJPD

Chris Shippey

-CMO

Teina Willson

-Guest

Alex Gurza

-CMO

REGULAR SESSION

ORDERS OF THE DAY

Chair Skeen called the meeting to order at 8:35 a.m. He stated that Item 2, which is to be heard in closed session, will be heard following the NEPC Presentation.

RETIREMENTS

1. Service - None

(Out of Order)

3. Change in Status - None

(Back on Agenda)

4. Deferred Vested

a. *Patricia A. Alvarez*, Former Police Officer. Request for Deferred Vested Benefits effective May 17, 2008; 13.48 years of service.

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

b. *Stephen L. D'Arcy*, Former Police Captain. Request for Deferred Vested Benefits effective May 9, 2008; 22.83 years of service.

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

Forrest Williams arrived

DEATH NOTIFICATIONS

5. Notification of the death of Douglas W. Carter, Retired Firefighter; retired 2/19/00, died 3/23/08. No survivorship benefits.

(M.S.C. Muncy/Brill) to approve benefit payments. Motion carried 6-0-1. (Absent: Cortese).

6. Notification of the death of Kenneth J. Geppert, Retired Sergeant; retired 10/4/83, died 3/22/08. No survivorship benefits

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

7. Notification of the death of Mark A. Holmes, Retired Fire Captain, retired 9/2/87, died 3/19/08 and survivorship benefits to Carole J. Holmes, spouse.

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

8. Notification of the death of David P. Longaker, Retired Sergeant; retired 8/7/91, died 3/31/08 and survivorship benefits to Mary T. Longaker, spouse.

(M.S.C. Brill/Heredia) to approve benefit payments. Motion carried 6-0-1.

9. Notification of the death of Les A. Mehrkens, Retired Fire Engineer; retired 9/7/88, died 4/14/08 and survivorship benefits to Bobbi Mehrkens, spouse.

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

(Out of Order)

NEW BUSINESS

11. PowerPoint presentation entitled "Westly and the California Pension Protection Act

Mr. Richeda reported on the 2003 Westly decision that was the most recent judicial interpretation of the California Pension Protection Act. He noted the narrow interpretation of the Act that was adopted by the court. He expressed his disagreement with that interpretation and described the basis for his disagreement. The bottom line is that the Westly decision, even if flawed in its analysis, remains the most recent case law on this important topic.

Member Heredia stated there had developed between the Board and the City a power struggle over who has the authority to do what, but it is not about authority as much as it is about whose responsibility it is to perform a certain task.

Mr. Richeda stated the Constitution language imposes responsibility and authority. That is where the Westly Case comes into play; unfortunately for this Board the scope of its constitutionally mandated authority/responsibility is not clear.

Member Cortese arrived

Ms. Dent stated she agreed that the Westly Case cannot be ignored, but one needs to extrapolate from the Westly case going forward and she would advise that others situations would be viewed on a case by case basis.

(Back on Agenda)

10. Presentation by Dick Charlton, NEPC, entitled “Diversification – The Theory, The Practice, The Results”

Mr. Charlton gave some background information on the company and their success.

Member Heredia stated he attended several NEPC conferences and each time was impressed. He has been involved in the process of hiring a new investment manager and there were extensive interviews conducted.

Member Williams exited

Mr. Charlton presented that his group will be reviewing diversification concepts – exploring some new options that can be used to improve and stabilize returns over time, review of risk management to mitigate and spread the risk out, and reviewing portable alpha and obtaining more consistent and reliable method of enhancing index returns inexpensively. He explained that portable alpha is enhancing index exposure and is usually obtained with a small commitment to derivatives. Although the process may sound easy, derivative exposures and product structures are legally complex, many alpha strategies are complex, and most strategies have high fees. NEPC drives certain solutions, where possible, and use bundled, ERISA friendly vehicles, to maintain transparency and liquidity, and have reasonable fees. He provided a background of NEPC’s portable alpha experience. He explained their risk and return impact conclusions are to materially diversify traditional “stock: bond” investment programs, so the returns are enhanced from inclusion of new asset classes and the risk is reduced from reduction in equity commitments. For the City of San Jose NEPC will be validating the current allocation targets verses actuals, discuss managers that are on the watch list, review assets and liabilities, review and prepare an implementation plan regarding private equity allocations, and for new asset classes to determine the priority for absolute return, emerging market debt, and real assets.

Mr. Sekany stated that he is glad to see the Board taking leadership and having the courage to make changes. He asked if this new model NEPC is introducing on how to invest the fund will it be more responsive to the changes in the market.

Mr. Charlton stated globally it will be more adaptable.

Member Cortese exited

Mr. Johnson commended the Board for their work on this. He was very impressed, and it fits the natural progression for a plan. He always considers the risk factors and is supportive of the strategies presented today.

Mr. Richeda suggested that NEPC provide written educational materials for the Board to stay on top of changes.

The Chair adjourned into Closed Session at 10:26 am.

(Out of Order)

2. Disabilities

- a. **Eric B. Willson**, Police Officer, Police Department. Request for Service-Connected Disability Retirement effective March 22, 2008; 17.13 years of service. **(Closed Session Requested by Applicant under DISABILITY RETIREMENT SECTION 54957)**

The Chair called the meeting back into regular session at 10:50 am and reported that the Board approved a Service-Connected Disability 5-0-2. Motion carried. And the effective date will be February 9, 2008, as requested by the applicant.

12. Adoption of the revised Board's Procedure for Education and Travel Guidelines.

The Secretary stated this aligns the Boards policy with the City of San Jose and CONUS guidelines.

Mr. Johnson requested to know if there is a Cap or limitation for the actual costs.

Mr. Webster stated there is not a limitation.

Mr. Richeda stated the policy does state that expenses must be reasonable and necessary.

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

13. Authorization for DRS Director to negotiate and execute agreement with Nortel Systems and RSI for VoIP equipment to replace current Merlin Phone System for a cost not to exceed \$25,000. (Cost to be shared 50/50 with Federated System)

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

14. Delegation of authority to Board Secretary to negotiate and execute a First Amendment to the agreement with Kennedy Associates Real Estate Counsel, LP revising scope of services and delegation to the Board's Real Estate Committee to approve agreement.

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

15. Delegation of authority to Board's Investment Committee to select an Investment Counsel and for the Secretary to negotiate and execute an agreement with the selected firm.

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

16. Approval for Secretary to negotiate and execute a new agreement with Saltzman & Johnson Law Corporation, Board's conflicts counsel, for a term ending 30 June 2011 and an amount not to exceed \$250,000.

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

17. Further discussion and approval of The Segal Company's actuarial study for the two-year period ending 30 June 2007, establishment of rates of contributions to be effective 1 July 2008 and adoption of Resolution No. 3390 to be effective 29 June 2008 setting contribution rates for Police Members only.

Vice-Chair Heredia stated the action recommended from last month was to keep the medical/dental rates the same and to notify the City Manager, Local 230, and the POA for approval.

The Secretary stated he received a letter responding to that action this morning and it indicates they are in favor of the recommendation.

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

17a. Adoption of Resolution No. 3391 to be effective 29 June 2008 setting contribution rates for Fire Members only.

Vice-Chair Heredia questioned why the employer normal cost was the same as the employee normal cost at 0.01%, and also requested that a single page showing the current rates and the new rates be provided.

Mr. Yeung stated for the normal costs he rounded up since the difference in the rate was incremental. He also used the 2005 valuation for the retiree medical portion for both police and the fire rates. The City's contribution will be 3.85%, the Fire contribution rate will be 3.85%, and the previous rates were 3.57% for members.

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

OLD BUSINESS / CONTINUED ITEMS

18. Approval of City Administration's request for Board actuary to conduct additional study on police benefit enhancements of 3% for each year after 20 years, maximum of 90%, and survivorship benefit increase to 45% of final average compensation for a study cost not to exceed \$5,000.

Vice-Chair Heredia stated that he thought the fire benefit was taken out. He further thought this item was costed out before and it was referred to as the CalPERS model and the San Jose Specific model.

Mr. Yeung stated when the City and Fire requested for pricing associated with implementing just for survivor, however the costing was done for police but not fire.

(M.S.C. Brill/Muncy) to approve. Motion carried 4-1-2. (No: Heredia, Absent: Cortese, Williams).

19. Acceptance of the letter from Segal concerning reduced contributions due to prepayment of City contributions for the year 2008/2009 and authorization to forward on to City Administration.

Mr. Johnson recused himself. He stated that a revised Municipal Code section will be prepared and returned in June for approval. The City is moving forward with the issuance of revenue bonds so prefunding can occur in early August.

Vice-Chair Heredia asked how much more cost will be associated with the change of the date from July to August. He also wanted to know if by prefunding, it will necessitate having a valuation every year now.

Mr. Yeung stated they would just refresh the numbers and it should be less than \$1000. He stated the valuations schedule would remain the same; however a true-up would need to be done each year. A true up can cost depending on the mechanics, but he believes staff should be able to conduct that process with some assistance from Segal. Going forward there will be the one reconciliation versus 26 for each pay period.

Mr. Johnson stated in the Finance Department they have set-up a separate fund to charge and accrue the expenses. They are working with Retirement Services to verify the numbers at the end of the year, and the true-

up is really an accounting function, not an actuarial function, so the final numbers will be applied in the following years and based on the information they will either add or subtract from it.

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

20. Approval of staff request to extend temporary analyst position until August 31, 2008 for a cost not to exceed \$30,000. (Cost to be shared 50/50 with Federated System)

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

21. Request for Board action on draft ordinance regarding Firefighter Arbitration Award.

Vice-Chair Heredia stated that questions remain on survivor and disability retirements. The Board needs to provide to staff specific instruction for what part of the pension is taxable.

Chair Skeen asked legal counsel to advise him if he needs to recuse himself.

Mr. Richeda and *Ms. Dent* both agreed that that are not entering into a contract so he may participate in this discussion.

Chair Skeen suggested that this resolution should be blended with the previous resolution presented by Ms. Devencenzi, and sent forward.

Member Williams returned

Mr. Sekany asked what impact this will have on the ordinance written by Ms. Devencenzi, which was sent to Council with recommendations on March 6, 2008. He would prefer that the Board send a letter expressing their concerns and any impact on plan administration to the Mayor and City Council, but avoid encouraging passage of the ordinance until the details are fully worked out between the parties regarding the survivor piece.

Ms. Dent stated the contribution rates are based on the current draft ordinance presented today, and the previous ordinance went back to bargaining.

(M.S.C. Brill/Heredia) to have Saltzman & Johnson provide a letter expressing the Boards concerns, which is to be reviewed by Chair Skeen, then sent forward to City Council. Motion carried 6-0-1. (Absent: Cortese).

22. Oral update on the status of the Sunshine Reform Task Force.

Ms. Dent stated City Council adopted a revised Rules of Conduct on closed sessions, and she will provide the final resolution for the next meeting. They intend to apply those recommendations to other Boards and Commissions by June 3rd. One outstanding issue is the disclosure of price for real estate transactions on agendas; her office has been advocating not disclosing that information. The City Attorney's Office is drafting the resolution to include a threshold, which will be at \$1 million, so that should not affect the Board.

23. Oral update on City's audit of Retirement Services travel and the Public Records Act request on travel expenditures.

The Secretary stated the audit is ongoing and receipts were provided. The City Auditor's office has been scheduling individual meetings with trustees and staff. The Public Records Act request information has been provided to the Mercury News and we have not heard anything else yet.

24. Approval of Revised Policy 220.3-P&F on Procurement of Legal Services.
(Deferred from March)

(M.S.C. Heredia/Brill) to defer the item to August. Motion carried 6-0-1. (Absent: Cortese)

25. Discussion and possible action on the City's Finance Department's Travel Reimbursement Timeline.

Mr. Ryder, Division Manager in the Finance Department, presented the timelines pertaining to staff travel statements for calendar year January through December 2007. He found a total of 31, with 26 of those processed through the finance department. He summarized the average days from when the travel ends until the time the expense report is submitted to finance is what the presentation will address.

Mr. Johnson stated the finance department can provide a breakdown of what occurs once an expense form is submitted from an office to finance.

Vice-Chair Heredia stated the process is different for those members that are not City employees. Also, he stated the checks do not provide a statement or information on them to identify what they are paying for and it should have that.

Mr. Johnson stated their department needs to work on the timeline prior to getting the request and work with staff to streamline the process. The internal process where finance communicates with all City departments, if changes are made to reconcile it with the department, so we may need to tighten up our procedures.

Member Muncy requested that they be provided a timeline for pay-out for sick time when a plan member retires.

Mr. Johnson stated he will provide educational material regarding sick leave pay-out.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS (26-29)

Investment Committee (Skeen, Heredia, Muncy) - None

Real Estate Committee (Skeen, Heredia, Muncy)

- a. Summary of special meeting held 6 March 2008
- b. Summary of special meeting held 20 March 2008
 1. Summary of the following Board of Directors meetings held 20 March 2008
 - a. SJ Progress Point, LLC
 - b. 3169 Dodd Road Corporation
 - c. 3301 C Street, LLC
 - d. 3201 C Street, LLC
 - e. 1737 North First Street

These are all note and file.

Investment Committee of the Whole (Full Board) - None

Joint Solutions to Retiree Healthcare Committee

Chair Skeen that the draft Final Committee Report, will need to be approved at the Board's next meeting.

30. APPROVAL OF MINUTES

Monthly Board Meeting held 3 April 2008

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

PENDING ACTION LIST

31. Updated list as of 23 April 2008

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

BENEFITS REVIEW

32. Summary of Meeting held March 2008

This item is note and file.

CONSENT CALENDAR (Items 33-35)

Chair Skeen pulled item 35c at the request of vice-chare Heredia.

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

35.c 2008 Open Enrollment & Special Enrollment Informational Memo

Vice-chair Heredia stated he only received a few calls from retirees during the open enrollment. He would like to avoid running into similar issues this coming November, and requests that a letter be writing to the City Manager's Office requesting information on if there are plans to extend the lowest cost plan or if not to please inform retirees and the membership at large sooner than later.

PROPOSED AGENDA ITEMS

PUBLIC COMMENTS

EDUCATION & TRAINING

36. Notification of CalAPRS' Trustees' Roundtable to be held in Oakland, Friday, 30 May 2008
37. Notification of NCPERS' Program for Advanced Trustee Studies to be held at Harvard Law School, July 22 thru 24, 2008.
38. Notification of IFEBP's 54th Annual Employee Benefits Conference to be held in San Antonio, November 16 thru 19, 2008.

ADJOURNMENT

There being no further business, the **Chair** adjourned the meeting at 12:50 pm.

MARK SKEEN, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

RUSSELL U. CROSBY, SECRETARY
BOARD OF ADMINISTRATION