

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**August 2, 2007**

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:31 a.m., on Thursday, August 2, 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, CHAIR**

**KEN HEREDIA**

**BRET MUNCY**

**BILL BRILL**

**DAVE CORTESE**

**Fire Employee Representative**

**Police Employee Representative**

**Trustee**

**City Council Representative**

### ALSO PRESENT:

**Edward Overton -SECRETARY**

**Susan Devencenzi -City Attorney**

**Russ Richeda -Saltzman & Johnson**

**Amanda Ramos -Staff**

**Udaya Rajbhandari - "**

**Donna Busse - "**

**Carol Bermillo -Staff**

**Jim Jeffers -Attorney**

**Mike Pribula -Staff**

**Colleen Hy -Staff**

**Lt. Dale Morgan -SJPD**

**Camille Garcia -SJPD**

**Cliff Greenberg -CAO**

**Tom Webster -Staff**

**Sam Swift -Attorney**

**Debbi Warkentin -Staff**

**Tamasha Johnson -Staff**

**Judy Powell -Staff**

**Ron Kumar - "**

**Susan Perriera - "**

**Linda Brogan - "**

**Linda Charfauros -SJFD**

**Toni Johnson -Staff**

**Rajiv Das -Board Doctor**

**Jose Luna -SJFD**

## REGULAR SESSION

### ORDERS OF THE DAY

The Chair called the meeting to order at 8:31 a.m. He stated Item 3a has deferred, and Item #18 would be heard first and then adjourned into closed session.

### OLD BUSINESS / CONTINUED ITEMS

#### **CLOSED SESSION PURSUANT TO GOVERNMENT CODE §54956.9(a) - EXISTING LITIGATION**

**Title of Case: *Mark Bell v. Board of Administration*, Santa Clara County Superior Court No. 1-03-CV814433, and**

**Approval of Saltzman & Johnson's litigation budget in prospective Bell Appeal for an amount not to exceed \$20,000.**

The Chair called the meeting back into order at 8:58 am. He stated that the Board would report out the discussion from Closed Session at the next meeting. Item 2a will be heard upon Lt. Morgan's arrival.

The Secretary introduced the newest members of the Retirement Services staff, Linda Brogan in the benefits group.

## **RETIREMENTS**

### **Service**

**Michael G. Alford**, Officer, Police Department. Request for Service Retirement effective July 14, 2007; 21.55 years of service.

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

**Rudolph R. Arroyo**, Fire Engineer, Fire Department. Request for Service Retirement effective August 25, 2007; 28.12 years of service.

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

**Jose Luna**, Battalion Chief, Fire Department. Request for Service Retirement effective July 4, 2007; 32.40 years of service.

The Chair stated for the record that Battalion Chief Luna was present and wished him well in retirement.

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

**David E. Moore**, Captain, Fire Department. Request for Service Retirement effective August 25, 2007; 32.54 years of service.

The Secretary stated that Captain Moore currently has a request for a service-connected Disability pending.

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

**Steve E. Padilla**, Captain, Fire Department. Request for Service Retirement effective August 11, 2007; 31.29 years of service. (SCD Pending)

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

**David M. Sandoval**, Officer, Police Department. Request for Service Retirement effective June 23, 2007; 25.04 years of service.

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

### **(Out of Order)**

## **DEATH NOTIFICATIONS**

**Notification of the death of Ethan M. Coburn; retired 5/6/87, died 6/22/07.**  
Survivorship benefits to Deronda Coburn, spouse.

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

**Notification of the death of Stephen Ronco, Retired Lieutenant; retired 7/31/04,** died 7/5/07. Survivorship benefits to Stephanie, Elizabeth, Alexandra & Mario Ronco, spouse and children respectively.

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

**Notification of the death of David M. Sandoval, Retired Police Officer; retired 6/23/07,** died 6/25/07. Survivorship benefits to Tammy, Andrea & Amanda Sandoval, spouse and daughters respectively.

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

**Notification of the death of William J. Wittman, Retired Sergeant; retired 11/3/86,** died 7/16/07. Survivorship benefits to Kathleen C. Wittman, spouse.

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

**Notification of the death of Kimberly Thronson, Active Firefighter; died 6/4/07.** Survivorship benefits to Teresa Maudlin, Domestic Partner, and Seija Thronson, Daughter.

**The Secretary** stated that the benefit calculation was based on a non-service and they are looking at if it will be service.

*Mr. Webster* stated that also the spouse of Retired Police Officer Sandoval has a request in to change his death to a service connected death.

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

## **NEW BUSINESS**

**Approval of Full Retirement Option to be paid to Rosa Bacigalupi, ex-spouse of Sergeant David Bacigalupi,** effective June 1, 2007 under Part 17, Section 3.36.3600 of the San José Municipal Code.

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

**Approval of Early Retirement Option to be paid to Sandra Duncan, ex-spouse of Sergeant Dennis Dolezal,** effective July 1, 2007 under Part 17, Section 3.36.3600 of the San José Municipal Code.

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

**Approval of Ordinance modifying Municipal Code Section 3.36.550 allowing the Plan to add Limited Liability Companies as title holding entities for the Plan's real estate holdings and, Conversion of Calais Office Center's corporate structure from 501(c) (2) corporations to Limited Liability Companies.**

**The Secretary** stated that this would convert the Calais Corporations to LLC's.

*Mrs. Devencenzi* stated that this ordinance would be going before council this month, then will come back for a second reading, and then can become effective thereafter.

(M.S.C. Brill/Muncy) to approve ordinance modifying the Municipal Code and to covert the Calais Office Centers to and Limited Liability Companies. Motion carried 5-0-2.

**(Back on Agenda)**

**Disabilities**

**Camille Garcia**, Officer, Police Department. Request for Service-Connected Disability Retirement effective August 2, 2007; 11.37 years of service.

**Police Officer Garcia** was present.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Ted Robinson	1/15/02; 8/28/02; 12/3/02; 4/16/03; 6/11/03
Donald Seymour	7/11/03
Lisa Isaac	4/21/03
Thomas Kula	10/29/01
Murray Soloman	10/14/01
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	7/15/03; 8/8/03 (supplemental)

*Dr. Das* stated that the applicant was originally involved in an automobile accident, and then re-injured herself during training. Her symptoms are consistent with the imaging studies performed.

*Police Officer Garcia* gave a brief history of her injuries and what has been medically recommended. She said that she cannot wear a gun belt due to the weight, so she no longer can patrol. Also, she is currently working a 40 hour week.

**Member Heredia** question *Dr. Das* about his disagreement with the treating physician concerning the applicant's ability to work part-time.

*Dr. Das* stated that there was not any supporting information from the treating physician as to why the applicant could only work 6 hours a day. He stated that mostly that recommendation came from the applicant's tolerance of pain, but there was no burden of proof from the treating physician to show why this case is different than another with similar injuries.

*Lt. Morgan* stated that currently the Department has 56 officers that can't do patrol duty, that amount reduces the ability to keep the streets safe, and this month the few part-time positions that are available will be up for bidding on; however Mrs. Garcia does not have enough seniority therefore she won't have a position at the next shift change.

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

**Change in Status**

**James B. Randall**, Retired Fire Captain. Request for changed in status to Service-Connected Disability Retirement effective January 30, 2004; 30.31 years of service.

This item was deferred.

**Deferred Vested - None**

**NEW BUSINESS**

**Approval to excuse the absence of Vice Chair Ken Heredia from the Board's April meeting.**

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

**Action on the City's recently published Disability Retirement Study and authorization to Towers Perrin's to complete an evaluation of the City's report for a cost not to exceed \$150,000.**

**The Board** expressed their concerns about the incompleteness, inaccuracies, and overall perception that the San Jose Mercury News reflected to the public. They also stated that several names placed into the report as having assisted in putting it together were not involved in any way at all.

**Member Cortese** suggested that the Board and staff be notified of when this item goes before council.

(M.S.C. Heredia/Brill) to have Vice-Chair Heredia send a letter to the City Manager summing up the Board's concerns and to continue this item. Motion carried 5-0-2.

**Authorization for Secretary to negotiate and execute a First Amendment to the Agreement with The Segal Company for consulting actuarial services increasing the maximum compensation by \$150,000 for a total not to exceed \$395,000.**

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

**Approval to discontinue the maintenance and publication of the Retirement Name List for the fiscal year ended June 30, 2007.**

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

**Request for direction to staff to develop Board policy and procedure for: a) accessing legal opinions; b) obtaining representation for court appearances; and c) legal advice for contracting issues.**

(M.S.C. Heredia/Brill) to approve staff creating a policy to bring back to the Board. Motion carried 5-0-2.

**OLD BUSINESS / CONTINUED ITEMS**

**Update on DRS operational audit**

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

**Request for Board direction to staff on City's Sunshine Reform Task Force's Provisions and Recommendations and discussion on Russ Richeda's memo on "Experience of Other Retirement Boards under Sunshine Ordinances."**

**The Board** directed staff to submit a response to the new/modified recommendations prior to the next meeting on 8/17, then to keep the Board informed of all scheduled meetings in the future, and that there be further research done to draw out the burden or direct impact this will have on the customers and staff with regards to the Public Records Act.

**Approval of ordinance amending the P&F Plan to permit certain retirees to elect to pay for health insurance premiums on a pre-tax basis up to limit provided in Internal Revenue Code Section 402(l).**

The Secretary stated that this item will be deferred, as the ordinance is not ready because IRS has put out some new information.

**Oral Update on the Director of Retirement Service recruitment.**

Chair Skeen stated that a selection has been made and the recommended candidate, Russell Crosby, will be going before Council on 8/17 for approval, which if approved, he would begin employment thereafter.

**STANDING COMMITTEE REPORTS/RECOMMENDATIONS**

**Investment Committee (Skeen/Heredia/Muncy)**

Summary of meeting held 21 June 2007

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

**Real Estate Committee (Skeen/Heredia/Muncy – Alt: Vacant) – next meeting 20 September 2007.**

Summary of quarterly meeting held 21 June 2007.

1. Summary of the following Board of Directors meetings held 21 June 2007.
  - a. 1737 N. First Street Corporation.
  - b. 3169 Dodd Road Corporation.
  - c. 3201 C Street Corporation
  - d. 3301 C Street Corporation

*This item is note and file.*

**Investment Committee of the Whole (Full Board)**

Summary of meeting held 17 May 2007

*This item is note and file.*

**APPROVAL OF MINUTES**

**Monthly Board Meeting held 7 June 2007**

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

**PENDING ACTIONS LIST**

**Updated list as of 24 July 2007**

The Chair requested to add Public Records Act Policy, and a Board policies reference binder.

*This item is note and file.*

**BENEFITS REVIEW**

**Summaries of meeting held May and June 2007.**

Vice-Chair Heredia asked about benefit changes for 07-08, as he thought there was some indication that retirees would have to pay for certain coverage.

Mrs. Devencenzi stated that retirees do not pay for dental and the health plan is the lowest cost, anything else has not been discussed.

Chair Skeen asked staff to look into EAP services, as he was contacted by a member that was having difficulty obtaining services.

*Mr. Pickler* said he would find out.

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

## **CONSENT CALENDAR**

**Chair Skeen** pulled Item 27b for discussion.

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

## **Memo on Public Records Act – Retirement Records**

**Vice-Chair Heredia** stated that the Board does not have a written policy at this time, then they should get one in place, but then asked about the Sunshine Task Force recommendations concerning Public Records will impact any policy they start.

*Mrs. Devencenzi* stated that the Sunshine Task Force will be making recommendations, but this item has not had any public outreach yet, so it is still too early to know what will come from them and there has been many concerns raised. The Federated Board asked us to work on a policy for them and we can utilize the one created for them, but making it more detailed with specific information to this Plan.

(M.S.C. Heredia/Muncy) to approve staff coordinating with legal counsel on creating a Public Records Act Policy. Motion carried 5-0-2.

## **PROPOSED AGENDA ITEMS**

### **PUBLIC COMMENTS**

#### **EDUCATION & TRAINING**

**Notification of IRR's Guns & Hoses 2007 Conference to be held in Huntington Beach, September 16 through 18, 2007.**

## **ADJOURNMENT**

There being no further business, at 11:17 a.m., **The Chair** adjourned the meeting.

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**MARK J. SKEEN, CHAIR  
BOARD OF ADMINISTRATION**

**ATTEST:**

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**EDWARD F. OVERTON, SECRETARY  
BOARD OF ADMINISTRATION**