

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

June 4, 2009

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:49 a.m., on Thursday, June 4, 2009, in regular session at Department of Retirement Services, 1737 N. First St, Suite 600 - San Jose, CA.

### ROLL CALL

#### Present:

DAVID BACIGALUPI

BILL BRILL

SCOTT JOHNSON

KEITH KEESLING

ROSE HERRERA

SAM LICCARDO

CHAIR

Trustee

Trustee

TRUSTEE (Arrived 9:25 am via teleconference)

Trustee

Trustee (Arrived 9:13 am)

### NOT PRESENT:

CONRAD TAYLOR

VICE-CHAIR (Excused)

### ALSO PRESENT:

Russell Crosby

-SECRETARY

Carmen Racy-Choy

-Staff

Mollie Dent

-City Attorney Office

Debbi Warkentin

-Staff

Tamasha Johnson

-Staff

Ira Summer

-Public Pension Professionals

David Bullock

-MGO

Bruce DeMers

-P&F Retirees

Ali Amiry

-Staff

Jim Jeffers

-Attorney

Veronica Niebla

-Staff

Aracely Rodriguez

-OER

Jeff Rickets

-POA

Randy Sekany

-L230

John Tennant

-Attorney

Jennifer Malutta

-City Council Office

Christopher Platten

-Attorney

Sam Swift

-Attorney

Bill Thomas

-SJREA

Valerie Simpson

-SJPD

Amanda Ramos

-Staff

Donna Busse

-Staff

Jay Wendling

-P&F Retirees

Russell Richeda

-Saltzman & Johnson

Annie Louie

-MGO

Toni Johnson

-Staff

Jesselle Holcomb

-Staff

Rhonda Snyder

-Staff

Maria Loera

-Staff

Roger Pickler

-Staff

Bobby Lopez

-SJPOA

Bob Leininger

-SJREA

Ceara O'Fallon

-Staff

Franco Vado

-POA

Karin Carmichael

-Staff

Lt. Mark Bustillos

-SJPD

Alex Gurza

-OER

Jim Unland

-SJPD

Linda Charfauros

-SJFD

Terrence Simpson

-SJPD

Brian Long

-Retired SJPD

George Beattie

-SJPD

## REGULAR SESSION

### ORDERS OF THE DAY

Chair Bacigalupi called the meeting to order at 8:49 a.m. He also stated Item 1a, and v – applications of James Acker, and Dana Reed, have been withdrawn at the request of the applicants.

## RETIREMENTS

1. **Service**

- a. ***Karen M. Allyn***, Battalion Chief, Fire Department. Request for Service Retirement effective June 27, 2009; 28.03 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0. (Absent: Liccardo, Taylor, Keesling)

- b. ***Michael A. Ayala***, Battalion Chief, Fire Department. Request for Service Retirement effective June 27, 2009; 28.07 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- c. ***Wilfredo Bañuelos***, Fire Engineer, Fire Department. Request for Service Retirement effective June 27, 2009; 29.09 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- d. ***Jerry T. Buzzetta***, Battalion Chief, Fire Department. Request for Service Retirement effective June 30, 2009; 25.00 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- e. ***Jeffrey L. Clet***, Battalion Chief, Fire Department. Request for Service Retirement effective June 27, 2009; 26.05 years of service. (SCD Pending)

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- f. ***Philip J. Demers***, Fire Captain, Fire Department. Request for Service Retirement effective June 27, 2009; 31.62 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- g. ***Mark R. English***, Fire Captain, Fire Department. Request for Service Retirement effective June 27, 2009; 27.80 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- h. ***Daniel J. Gallardo***, Fire Engineer, Fire Department. Request for Service Retirement effective June 28, 2009; 25.02 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- i. ***Raymond E. Gonzales***, Sergeant, Police Department. Request for Service Retirement effective July 11, 2009; 28.46 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- j. ***Rudy Gonzalez***, Fire Engineer, Fire Department. Request for Service Retirement effective June 13, 2009; 31.86 years of service.

**Chair Bacigalupi** noted that Sergeant Gonzalez has a SCD pending on his application.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

k. **Timothy R. Hall**, Firefighter, Fire Department. Request for Service Retirement effective June 27, 2009; 29.97 years of service. (SCD Pending)

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

l. **Gregory S. Hamane**, Fire Engineer, Fire Department. Request for Service Retirement effective June 27, 2009; 26.07 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

m. **Craig Johnson**, Police Officer, Police Department. Request for Service Retirement effective July 11, 2009; 30.77 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

n. **David C. Lerma**, Fire Captain, Fire Department. Request for Service Retirement effective June 27, 2009; 28.84 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

o. **Ramon O. Luna**, Fire Engineer, Fire Department. Request for Service Retirement effective June 27, 2009; 24.96 years of service. (SCD Pending)

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

p. **Thomas A. Martuscelli**, Police Officer, Police Department. Request for Service Retirement effective ~~June 27, 2009~~ July 11, 2009; 25.32 years of service.

**Chair Bacigalupi** stated the applicant requested his effective date be changed to July 11, 2009.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

q. **James A. Melo**, Lieutenant, Police Department. Request for Service Retirement effective July 12, 2009; 25.02 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

r. **Ruben A. Millan**, Firefighter, Fire Department. Request for Service Retirement effective June 30, 2009; 28.88 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

s. **Anthony J. Ojeda**, Firefighter, Fire Department. Request for Service Retirement effective June 27, 2009; 29.22 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

t. **Ronald E. Pomerantz**, Fire Captain, Fire Department. Request for Service Retirement effective June 27, 2009; 29.24 years of service.

(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

- u. **Charles H. Rice**, Fire Engineer, Fire Department. Request for Service Retirement effective June 27, 2009; 28.84 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- v. **David E. Schoonover**, Deputy Fire Chief, Fire Department. Request for Service Retirement effective June 27, 2009; 27.82 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- w. **Craig G. Schwinge**, Fire Captain, Fire Department. Request for Service Retirement effective June 27, 2009; 26.02 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- x. **George J. Springer**, Police Officer, Police Department. Request for Service Retirement effective July 11, 2009; 28.46 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- y. **Ray H. Storms**, Fire Captain, Fire Department. Request for Service Retirement effective June 30, 2009; 25.07 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- z. **Mark A. Thoman**, Firefighter, Fire Department. Request for Service Retirement effective June 27, 2009; 26.10 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- aa. **Adam D. Tovar**, Police Officer, Police Department. Request for Service Retirement effective July 12, 2009; 28.23 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- bb. **Bruce W. Unger**, Lieutenant, Police Department. Request for Service Retirement effective July 11, 2009; 29.29 years of service (SCD Pending)  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.
- cc. **Thomas L. Warren**, Fire Engineer, Fire Department. Request for Service Retirement effective June 30, 2009; 25.02 years of service.  
(M.S.C. Brill/Herrera) to approve. Motion carried 4-0-0.

**Chair Bacigalupi** stated over 195 years of police service, and over 664 years of fire service were retired today. He thanked and congratulated everyone.

2. **Disabilities - None**

3. **Change in Status**

- a. **Brian A. Long**, Retired Police Officer. Request for change to a Service-Connected Disability Retirement effective January 12, 2008; 29.80 years of service.

For the record **retired Police Officer Long** was present and was represented by *Mr. Jeffers*. The following reports have been received:

MEDICAL REPORTS - DR'S NAME	DATED
JOHN SMITH, M.D.	9/6/06; 9/7/06; 8/29/06; 10/9/06; 4/5/07; 9/13/07; 5/6/08 (2 RPTS); 9/24/08
JONATHAN NG, M.D.	5/5/01; 3/12/08; 4/3/08; 5/1/08; 8/20/08
DAVID HIRSCHFELD, M.D.	10/6/06; 12/14/06; 3/1/07
WILLIAM BREALL, M.D.	9/12/00

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	4/16/2009

*Dr. Das* stated the applicant has heart disease that causes decreased blood pumping to his heart, and he is unable to do physical activity that causes exertion.

Legal mentioned the applicant was working in a modified capacity and at the time could have remained in that position.

*Mr. Jeffers* stated the applicant was in an Article 39 position, and he was the most senior person in the program. His medical team felt that his condition put him at risk for a stroke and recommended he have no exposure to emotional stress.

**Member Liccardo arrived**

*Retired Officer Long* stated he was asked to voluntarily retire in the summer of 2007. He was provided timelines for having his case agendized. In November he began having spontaneous nosebleeds, it was alarming and he decided he needed to retire.

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0-0. (Absent: Keesling, Taylor).

**Joseph D. Roberts, Retired Fire Captain. Request for change to a Service-Connected Disability Retirement effective July 15, 2006; 32.44 years of service.**

For the record **retired Fire Captain Roberts** was present and was represented by *Mr. Swift*. The following reports have been received:

MEDICAL REPORTS - DR'S NAME	DATED
1. Brian Karvelas, M.D.	11/27/07, 01/04/07
2. Patrick McCreesh, M.D.	11/16/07, 07/20/06
3. Justin Lo, M.D.	06/22/07, 08/03/06
4. Michael Wall, M.D.	02/16/07, 02/01/06
5. Mark Culton, M.D.	03/16/06
6. Lawrence Chan, M.D.	12/09/05

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	5/17/2009

(M.S.C. Liccardo/Herrera) to approve. Motion carried 5-0-0.

**4. Deferred Vested**

- a. ***Caren E. Hare***, Former Police Officer. Request for Deferred Vested Benefits effective July 31, 2009; 20.22 years of service.

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

- b. **James M. McMahon**, Former Sergeant. Request for Deferred Vested Benefits effective June 19, 2009; 20.22 years of service.

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

## DEATH NOTIFICATIONS

5. Notification of the death of Richard W. Knell, Retired Police Officer; retired 1/3/90, died 5/3/09 and no survivorship benefits.

*This item is note and file.*

6. Notification of the death of Maurice J. Warner, Retired Police Officer; retired 1/11/98, died 5/5/09 and survivorship benefits to Anne M. Warner, spouse.

*This item is note and file.*

## NEW BUSINESS

7. Approval of Macias Gini & O'Connell's 2009 Audit Service Plan.

*Mr. David Bullock* presented the Audit Plan. He stated there are two main areas of focus; first the change in management from Kevin O'Connell and Linda Hurley, who were responsible for carrying out service to both plans. Ms. Hurley has taken a position in southern CA, so he is now taking over those responsibilities. Mr. Bullock has serviced the City since 2000 in the redevelopment agency and others.

*Mr. Bullock* continued that the Audit Plan serves to notify the Board of Governmental Auditing Standards, which requires the scope of work to be defined, auditor management annual requirements, and MGO has provided a summary of recent developments. GASB is issuing standards, but nothing impacts this plan. A new requirement for next year regarding derivatives will be an issue to be explored at that time. Retirement Services has been facilitating the coordination of reports and items necessary for the audit. MGO performs fiscal year end work to close the books in August and September; they then present the results to the Board in November.

### Member Keesling arrived via teleconference

*Ms. Annie Louie* stated MGO is on-site performing auditing in August, in September they review financials and coordinate with the CAFR audit team for the basic financial statements to be providing for the City in September. The pension CAFR has various unaudited sections that are completed after the audit, so it can be released in October.

**The Secretary** stated that there has been full cooperation with the audit and he does not foresee any issues.

(M.S.C. Brill/Herrera) to approve. Motion carried 6-0-0. (Absent: Taylor)

8. Discussion on the following matters arising out of the City Council at their May 13<sup>th</sup>, 2009 Budget Study Session:
  - a. Presentation made to City Council on Retirement Issues

**Chair Bacigalupi** stated he would like to know how the numbers presented in the document were produced.

*Mrs. Racy-Choy* stated the first nine slides and slide 23 were provided from the Office of Employee Relations, which describe the benefits that are in place. Slide 26 was provided by the Plans' investment consultant. The remaining slides were produced from documents internally by staff. Slide 11 showed the decline of assets

between 6/30/2008 and as of 3/31/2009. Slide 17 shows the net rate of return assumed in the actuarial valuations, the resulting gross actuarial rate of return and the highest actuarial rate of return that could be justified given the current asset allocation. On slide 26, NEPC provided the investment results of their clients using best practices, which include investment strategies, actuarial rate of return, and asset smoothing methods.

**The Secretary** stated NEPC's top performers used best practices that flowed through to the investments and over 40% of their LDI [(Liability Driven Investments) clients had positive returns or only moderately negative performance over the last 12 months.

*Mrs. Racy-Choy* stated the smoothing method only defers the problem, so the impact is spread over five years. Liability driven investment strategies reduce losses up-front and then smoothing could still occur. The key behind successful diversification across asset classes is analyzing and controlling risk.

*Mr. Summers* requested additional documentation and background in the calculations referenced in the presentation.

*Mr. Sekany* requested copies of the documentation requested by Mr. Summers also be provided to Local 230.

- b. Staff response to retirement questions as posed by Council members Kalra and Nguyen.

*Mrs. Racy-Choy* reviewed the response to the Councilmember's questions.

#### 9. Request for Board direction on trustee travel relating to investment manager due diligence trips.

**Member Liccardo** stated he had many questions regarding the propriety of having trustees performing due diligence. As he has learned more about travel and the appropriateness of travel, he found out that in other systems hardly any due diligence travel is done by trustees. It is important that the quality of information and decision making is handled by professionals, as trustee relationships with money managers could impair judgment.

**Chair Bacigalupi** stated he has been on due diligence trips in the past. He believes that as trustees they are ultimately the ones responsible for the decision making. The trustees can learn much from staff, but there is no need to devalue the intelligence of the seven trustees of the Board; additionally, staff may not be here tomorrow and so trustees need to be aware of what is happening in the Plan. The trustees are sworn to be responsible for the trust fund. There is the potential to develop or impair relationships with money managers on either side. There needs to be a check and balance of staff and trustees, but he feels that trustees should not limit themselves.

**Member Herrera** stated the type of expertise needed to evaluate fund managers seems highly specialized. She would want the most qualified individuals performing due diligence.

*Mrs. Racy-Choy* stated experts in sub asset classes, and those with specific subject matter expertise for all the various asset classes would be most qualified to perform due diligence, so that when they visit an investment firm the strategies, processes and controls are analyzed thoroughly. That individual would understand the risks being taken. An expert is going to go there to extract specific information that most firms do not wish to share, so there is probing and if the investment firm can get the due diligence process off-track then you lose the ability to get the necessary information.

**The Secretary** stated when a new investment consultant is hired; the investment committee should probably go to the location of the firm as trustees, which he would recommend. In California, there is not much trustee

travel for due diligence on public trust funds, but occasionally after a new manager/consultant is hired one member sometimes accompanies staff on travel for periodic reviews.

(M.S.C. Liccardo/Herrera) staff to perform manager due diligence and discretion for trustee participation in investment advisor due diligence. Motion failed 3-3-0. (No: Bacigalupi/Keesling/Brill; Absent: Taylor).

This item will be continued at the next meeting.

Member Liccardo exited 11:10 a.m.

## **OLD BUSINESS/CONTINUED-DEFERRED ITEMS**

10. Discussion and action on Firefighter Local 230 Attorney Christopher Platten's April 30, 2009 letter regarding actuarial issues.

**Chair Bacigalupi** suggested since there are several issues, and some of which may have been addressed by staff's response; would Local 230 be comfortable responding to staff's response in writing within the next five business days, so if further discussion and action is necessary should the matter be unresolved there will be adequate time to have it agendaized.

*Mr. Platten* agreed to respond in writing.

Member Herrera exited 11:25 a.m.

11. Update on Travel Audit compliance.

*Mrs. Niebla* stated a memo has been provided explaining the status of the audit's 23 recommendations, of which three remain to complete.

**The Secretary** stated the three outstanding audit recommendations have to do with setting reasonable parameters regarding travel and training, a reporting requirement either oral or written for conferences or trainings attended, and a supplemental policy regarding the number of members that may attend one event per the Brown Act.

**Chair Bacigalupi** requested this item to be added to the pending actions list.

12. Adoption of Resolution No. 3568 setting new rates of contribution, for Police members only, to be effective June 28, 2009.

(M.S.C. Brill/Johnson) to approve with modification. Motion carried 4-0-0. (Absent: Conrad/Liccardo/Herrera).

13. Approval for Secretary to negotiate amendment to agreement with Palo Alto Medical Foundation to transfer \$29,000 available contract fund from FY 2007-2008 to FY 2008-2009 for a new FY 2008-2009 not to exceed amount of \$75,305.

*Mrs. Niebla* stated the contract was written with an allocated amount of funds each year, the prior fiscal year did not use much of the funding, so we are requesting that those funds roll into this fiscal year's allocation.

(M.S.C. Brill/Johnson) to approve. Motion carried 4-0-0.

14. Approval of "Disability Retirement Summary Form" as drafted by Dr. Rajiv Das

(M.S.C. Johnson/Brill) to bring back the Disability Process Report and form. Motion carried 4-0-0.



## STANDING COMMITTEES / REPORTS / RECOMMENDATIONS

### Investments Committee (Johnson, Bacigalupi, Liccardo) – Next meeting 5/7/09

15. Summary of meeting held 7 May 2009

- a. Approval of minutes of Committee of the Whole held 5 March 2009

(M.S.C. Johnson/Brill) to approve. Motion carried 4-0-0.

- b. Approval of revisions to Proxy Voting Guidelines

(M.S.C. Johnson/Brill) to approve. Motion carried 4-0-0.

### Real Estate Committee (Johnson, Bacigalupi, Herrera) – Next meeting 6/18/09

### Audit Committee (Bacigalupi, Brill, Johnson)

16. Summary of meeting held 21 May 2009

- a. Recommendation for Board-approval of Revised City Travel Policy

*Ms. Dent* stated the Federated Board approved the policy and then an additional provision to allow the Secretary to approve travel in between meetings and report out on a subsequent agenda.

**Member Keesling** stated he had a question regarding the procedures with FLSA; are they systematic problems and are there solutions.

**Member Johnson** stated the issues identified regarding FLSA had to do with the system itself, and have been corrected. There is team coordination to review retro calculations. A final report will be sent to the Audit Committee upon completion.

**Chair Bacigalupi** requested that this item be placed on the pending actions list.

(M.S.C. Johnson/Brill) to approve. Motion carried 4-0-0.

## CONSENT CALENDAR (Items 17-24)

(M.S.C. Brill) to approve with the exceptions of Items 17, 19 and 24c. Motion carried 4-0-0.

17. Approval of Minutes

Monthly meeting held 7 May 2009

**Chair Bacigalupi** stated he would like the record to reflect that his participation was via teleconference.

(M.S.C. Johnson/Brill) to approve with correction. Motion carried 4-0-0.

19. Approval of Monthly Expenses

Report of P&F Retirement Plan administrative expenses for April 2009

**Chair Bacigalupi** stated one of the expenses is for payment for a conference that occurred in 2008, why is this just showing up.

*Mrs. Niebla* stated when a city employee travels, the expenses are coded to the department that individual belongs to, and then it is reclassified to the Retirement Plans. This process is done by the Finance Department. DRS staff and Finance are working together to coordinate on travel items to complete the process more promptly.

(M.S.C. Johnson/Brill) to approve. Motion carried 4-0-0.

**Communication/Information**

**24c. Notification of HR Budget Recommendation regarding 2009-2009 Benefit Rate Changes for Retirees.**

**Chair Bacigalupi** stated the Board cannot control what the City does on this issue, but they are shifting costs. The net effect is that this shift impacts retirees.

**The Secretary** stated there has been one rate for employees and retirees by having a blended rate. The City's portion is higher with the rate blended; so by splitting out the retiree portion, it reduces the City's general fund expense; however the retiree's rate triples due to separate underwriting for each group. This change in rates becomes effective 6/30/09 and retirement is in the process of notifying retirees, which is a 5-10 day process for mailings.

**Member Johnson** stated his concern regarding the medical program and the precedent this action sets. He does support the savings to the City. The City Council will consider the budget on June 16, 2009.

(M.S.C. Bacigalupi/Brill) to authorize the Chair to send a letter to the City Council, Mayor, and City Manager stating the Board's position and opposition to implementation of the new insurance rates. Motion carried 4-0-0.

**PROPOSED AGENDA ITEMS**

**Chair Bacigalupi** would like to agendize the following items:

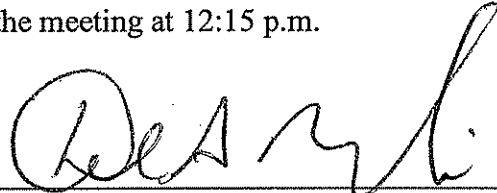
1. Legal's analysis of the rules for a Board quorum (in state, out of state, and in the room)

**PUBLIC COMMENTS**

**EDUCATION AND TRAINING**

**ADJOURNMENT**

There being no further business, **Chair Bacigalupi** adjourned the meeting at 12:15 p.m.



**DAVID BACIGALUPI, CHAIR  
BOARD OF ADMINISTRATION**

**ATTEST:**



**RUSSELL U. CROSBY, SECRETARY  
BOARD OF ADMINISTRATION**