

POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

7.1a

Minutes of the Board Meeting

Thursday

SAN JOSÉ, CALIFORNIA

June 2, 2011

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met on Thursday, June 2, 2011 in regular session at City Hall in the Wing Meeting Rooms 118-119, 200 East Santa Clara Street San José, California 95113. Chairman David Bacigalupi called the meeting to order at 8:35 a.m.

BOARD MEMBERS

| | |
|----------------------------|----------------------------|
| David Bacigalupi, Chair | -Present |
| Conrad Taylor, Vice Chair | -Present – depart 9:49a.m. |
| Sean Bill, Trustee | -Present |
| Michael Flaherman, Trustee | -Present |
| Sean Kaldor, Trustee | -Present |
| Damon Krytzer, Trustee | -Absent |
| Drew Lanza, Trustee | -Present |
| Vincent Sunzeri, Trustee | -Present |
| Richard Santos, Trustee | -Present |

ALSO PRESENT

| | |
|--------------------|------------------------------|
| Charles Carter | |
| Paul Mulholand | SJFD Retired |
| MaryL | SJFD Admin Services |
| Jay Wendling | P&F Retired |
| Sam Swift | Attorney |
| Cpt. Scott Savage | SJPD |
| Lt. Mark Bustillos | SJPD |
| Lt. Alex Nguyen | SJPD |
| Sandra Holloway | SJPD |
| Thomas J. Boyle | Attorney |
| Wayne Farquahan | SJPD |
| Casy Farquar | Friend |
| Alan Cavallo | SJPD |
| Ruben Chavez | SJECCD |
| Soren Coats | SJFF |
| Robert Sadign | SJFF |
| Aracely Rodriguez | Office of Employee Relations |

DIRECTOR RETIREMENT SERVICES

BOARD SECRETARY

Russell U. Crosby -Absent

COUNCIL LIAISON

Pete Constant -Present

COUNSEL

M. Dent, Sr. Deputy City Attorney -Present
Russ Richeda - Present

BOARD MEDICAL DIRECTOR

Rajiv Das, M.D.

RETIREMENT SERVICES STAFF

PRESENT

Donna Busse, Deputy Director
Carmen Racy-Choy, Deputy Director
Ali Amiry, PhD.
Veronica Niebla
Ron Kumar
Toni Johnson
Mike Moehle
Maria Loera
Karin Carmichael
Jennifer Holmboe
Mary Dariano
Sonia Morales

CALL TO ORDER: 8:35 a.m.

• ORDERS OF THE DAY

- The Board voted to waive City of San Jose Sunshine rules requiring supporting documents be posted one week prior to the meeting. Items on this agenda to be waived: 2.5, 3.2, and 6.2a. **Approved. (M.S.C. - Santos/Kaldor, 8-0-1, Krytzer absent)**

Access the video or audio, the agenda and related reports for this meeting by visiting the Retirement Services website at <http://sjretirement.com/> or http://sanjose.granicus.com/ViewPublisher.php?view_id=44. If you have any questions, please contact the Retirement Services Department at (408) 794-1000.

P&F 08-04-11

- Chair Bacigalupi requested the minutes from the May Board meeting be amended to include the words “noticed as” before the words “Via Teleconference”.
- Amend item 4.1d retirement effective date to 5/14/11.
- Defer item 4.2b, Disability hearing for Mark Freitas to September 2011.

1. INVESTMENTS

1.1 Staff presentation of the quarterly performance report as of March 31, 2011.

This item was presented by Deputy Director Carmen Racy-Choy.

1.2 Staff presentation on the Plan’s fixed income structure.

This item was presented by Ali Amiry, PhD., Investment Officer

1.3 Discussion and action on NEPC’s recommendation regarding short-term investment of the alternative investment allocation.

A motion was made to accept NEPC recommendation regarding short-term investment of the alternative investment allocation.

Approved. (M.S.C. – Sunzeri/Kaldor, 7-0-2, Taylor/Krytzer absent)

Item 3.4 was heard out of order after item 1.3.

2. NEW BUSINESS

2.1 Contributions Rates and Amounts for 2011-12

- a. Adoption of Resolution 3703 setting new city and employee contribution rates and amounts for Police members to be effective June 26, 2011.
- b. Adoption of Resolution 3704, setting new city and employee contribution rates and amounts for Fire members to be effective June 26, 2011.
- c. Memo from Michael Moehle regarding Fiscal Year 2011-2012 Contributions, dated May 24, 2011.
- d. Memo from Mollie Dent, Senior Deputy City Attorney regarding Setting Contribution Rates, dated May 25, 2011.

A motion was made to approve the Resolutions and contribution rates and amounts for 2011/2012.

Approved. (M.S.C. – Santos/Kaldor, 7-0-2, Taylor/Krytzer absent)

2.2 Discussion and action regarding Segal’s June 30, 2010 GASB 43/45 Valuation Report.

Approved. (M.S.C. – Kaldor/Sunzeri 7-0-2, Taylor/Krytzer absent)

2.3 Request to San Jose City Council to initiate amendment Ordinance to amend Section 3.36.080 of San Jose Municipal Code regarding Non-Assignment for purposes of Retiree Association Dues.

This item was continued in order to research any other deductions that might be made from retirement checks, costs to the plan, and rules regarding contributions to political organizations.

2.4 Discussion and action on staffing and compensation issues.

Deputy Director Racy-Choy reported that she had received two resignations in her department, Ryan Jusko, and Dr. Ali Amiry, leaving five open positions in her department. Further, there is

difficulty in recruiting and keeping qualified staff in the Investment Department due to compensation issues and City management requirements.

A motion was made to hold a Board Retreat to address immediate Plan issues that have fiduciary impact and other items as time allows.

Approved. (M.S.C. – Kaldor/Sunzeri, 7-0-2, Taylor/Krytzer absent)

A follow up motion was made to schedule a Board Retreat (in conjunction with the Federated City Employee's Board of Administration for part of the retreat) to address governance and fiduciary issues of the Plan, and other issues relating to the management of the Plan and the Plan's assets.

Approved. (M.S.C. – Kaldor/Bill, 7-0-2, Taylor/Krytzer absent)

- 2.5** Discussion and action regarding recommendation from the Subcommittee on Disability Determination.

A motion was made to approve the Disability Determination Process Sub-Committee letter to the City Auditor, written in response to the City Auditor's Report.

Approved. (M.S.C. – Kaldor/Lanza, 7-0-2, Taylor/Krytzer absent)

- 2.6** Discussion and recommendation to the San Jose City Council on Ordinance of the City of San Jose amending Title 3 of the San Jose Municipal Code to add new Chapters 3.54 and 3.56 and to amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.1950, 3.36.2030 and Section 3.36.2045 of Chapter 3.36 of Title 3 for the purpose of establishing two new trusts pursuant to Section 115 of the Internal Revenue Code related to retiree healthcare benefit funding and payment of retiree health care benefits.

A motion was made to approve the recommendation to the City Council subject to the acknowledgment that the Unions may not have reviewed the Ordinance, and recognize the costs to administer the Plan need to be reviewed.

Approved. (M.S.C. - Lanza/Sunzeri, 7-0-2, Taylor/Krytzer absent)

- 2.7** Discussion and recommendation to the San Jose City Council on Ordinance amending Section 3.36.580 of the San Jose Municipal Code to suspend the distribution of funds from the Police and Fire Department Retirement Plan Supplemental Retiree Benefit Reserve during Fiscal Year 2011-12.

A motion was made stating that the Board did not support the Ordinance but prefers a long term solution. The Board did not take a position on what the long term solution should be.

Approved. (M.S.C. – Bacigalupi/Santos, 6-1-2, Sunzeri against, Taylor/Krytzer absent)

3. OLD BUSINESS/CONTINUED-DEFERRED ITEMS

- 3.1** Discussion and action regarding Board Governance, including formation of an Audit Committee.

A motion was made to approve costs of the RFP and solicit a third party.

Approved. (M.S.C. – Kaldor/Sunzeri, 7-0-2, Taylor/Krytzer absent)

- 3.2** Discussion and action concerning legal analysis of the impact on current board members of Government Code Section 7513.95.

A motion was made to direct: the City Attorney and Conflicts Counsel to provide opinions, review ten examples of scenarios and identify which board members will be impacted,

*Estimated

communicate concerns in the interest of transparency, and write to the Attorney General of the State of California to ask pertinent questions.

Approved. (M.S.C. – Lanza/Santos, 7-0-2, Taylor/Krytzer absent)

- 3.3 Discussion and action regarding the City's Revolving Door Ordinance (SJMC Chapter 12.10 and Council Policy 0-15).

Senior Deputy City Attorney Dent provided information on the City's Revolving Door Ordinance.

- 3.4 Discuss Quorum Rules.

Senior Deputy City Attorney Dent advised that a quorum was needed to take action and that a quorum is defined as the majority of the members of the commission, not the majority of the members present. The only action that can be taken with less than five votes is to adjourn. Council Liaison Constant advised that the City Council must have five votes (majority) no matter how many Council members are present. Conflicts Counsel stated that the Municipal Code is ambiguous and suggested to bring this item back with Ms. Dent's legal opinion written two years ago.

Continued to next meeting in order to include background material and review by Conflicts Counsel.

- 3.5 Discussion and action regarding Cortex Report. (*Deferred from May 5, 2011*)

Deferred to the Board Retreat if time available.

- 3.6 Staff report on Payroll Audit, FSLA and overtime payment issues. (*Deferred from May 5, 2011*)

Veronica Niebla presented the report.

- 3.7 Discussion and action regarding Board Retreat.

This item was included in item 2.4. A Board Retreat, in conjunction with the Federated Board of Administration, should be scheduled in July.

- 3.8 Discussion and action regarding Electronic Agendas.

Staff has been researching and reviewing demonstrations. Staff will report back in August.

- 3.9 Discussion and action regarding Trustee fiduciary insurance non-recourse fees.

Ms. Dent reported that it is not general practice for alternative payments other than by the Trustee. Trustee Santos expressed that the City of San Jose should pay for the insurance. (**This item was deferred to the August 2011 Board Meeting**)

4. **RETIREMENTS – TIME CERTAIN AT 10:30 A.M.**

A motion was made to approve retirements numbered from 4.1a through 4.1p)

Approved. (M.S.C. – Santos/Kaldor, 7-0-2, Taylor/Krytzer absent)

4.1 **Service**

- a. **Scott A. Castruita**, Police Sergeant, Police Department, effective August 6, 2011; 27.17* years of service.

*Estimated

- b. **David Cavallaro**, Deputy Chief, Police Department, effective June 25, 2011; 29.01* years of service.
- c. **Kevin Clark**, Police Officer, Police Department, effective June 25, 2011; 25.01* years of service. *(With reciprocity)*
- d. **Thomas Correa**, Police Officer, Police Department, effective June 25, 2011; 26.67* years of service. *(With reciprocity)*
- e. **Alan G. Gerbino**, Fire Engineer, Fire Department, effective May 28, 2011; 26.80* years of service. *(SCD-pending)*
- f. **Glenn Harper**, Police Lieutenant, Police Department, effective June 30, 2011; 26.22* years of service.
- g. **Mitchell C. Kim**, Firefighter, Fire Department, effective June 25, 2011; 21.32* years of service
- h. **Gary L. Kirby**, Police Captain, Police Department, effective June 25, 2011; 25.50* years of service.
- i. **Oscar J. Martinez, Jr.**, Fire Captain, Fire Department, effective June 30, 2011; 27.00* years of service. *(SCD-pending)*
- j. **Stewart A. McGehee**, Battalion Chief, Fire Department, effective June 25, 2011; 30.12* years of service.
- k. **Bret A. Muncy**, Police Sergeant, Police Department, effective June 11, 2011; 26.17* years of service.
- l. **Michael A. Pomeroy**, Police Sergeant, Police Department, effective June 30, 2011; 27.64* years of service.
- m. **Jean-Pierre Santos**, Fire Captain, Fire Department, effective June 25, 2011; 28.07* years of service.
- n. **Edward J. Scanlon**, Fire Captain, Fire Department, effective June 26, 2011; 30.11* years of service.
- o. **Robert E. Sepulveda**, Police Officer, Police Department, effective June 30, 2011; 25.77* years of service. *(With reciprocity) (SCD-pending)*
- p. **Raymond J. Shields**, Police Sergeant, Police Department, effective June 25, 2011; 26.25* years of service.

4.2 **Service-Connected Disability**

- a. **Wayne M. Farquhar**, Police Lieutenant, Police Department. Request for a Service-Connected Disability Retirement, effective June 2, 2011; 24.36* years of service. *(Deferred from May 5, 2011)*
Approved. (M.S.C. – Santos/Flaherman, 7-0-2, Taylor/Krytzer absent)
- b. **Mark A. Freitas**, Police Officer, Police Department. Request for a Service-Connected Disability Retirement, effective June 2, 2011; 21.78* years of service.
Deferred to September 2011 Board Meeting

4.3 **Change in Status**

- a. **Charles C. Carter**, Fire Engineer, Fire Department. Request for a change of status from a Service Retirement to a Service-Connected Disability Retirement, effective September 6, 2008; 40.11 years of service.
Approved. (M.S.C. - Santos/Kaldor, 7-0-2, Taylor/Krytzer absent)

*Estimated

4.4 Deferred Vested

- a. **David P. Paulides**, Police Officer, Police Department, effective May 30, 2011; 16.50 years of service.

Approved. (M.S.C. – Kaldor/Santos, 7-0-2, Taylor/Krytzer absent)

5. DEATH NOTIFICATIONS: Note and File

- 5.1 Notification of the death of **Loren B. Gray**, Fire Engineer, retired 04/01/73, died 05/03/11. No survivorship benefits.
- 5.2 Notification of the death of **William C. Murray**, Battalion Chief, retired 03/10/85 died 04/30/11. No survivorship benefits.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS - None

6. CONSENT CALENDAR (Items #6.1 through 6.6)

- Trustee Kaldor requested items 6.6b and 6.6d be pulled from the Consent Calendar.
- Chair Bacigalupi requested item 6.4 be pulled from the Consent Calendar.

A motion was made to approve the balance of the Consent Calendar.

Approved. (M.S.C. Santos/Kaldor, 7-0-2, Taylor/Krytzer absent)

Changes to the minutes were suggested as follows: Ms. Dent suggested the words “noticed as” be inserted before the words “Via Teleconference” after Chairman Bacigalupi’s name; Trustee Sunzeri suggested that item 6.6d was not deferred; and Trustee Santos suggested changing Local 250 to Local 230 (Fire Fighters) next to Robert Sapien’s name in the attendance list.

A motion was made to make these changes to the minutes.

Approved. (M.S.C. – Santos/Kaldor, 6-1-2, Taylor/Krytzer absent, Bacigalupi abstained)

Trustee Kaldor asked if there was any response to the information memo regarding the Annual Required Contribution, sent to the Mayor and City Council as notated in item 6.6b. Mike Moehle advised that there had not been any response but he would follow up and Ms. Dent advised that the information memo does not usually initiate a response.

Trustee Kaldor requested that item 6.6d be included in the Board response to the City Council regarding SRBR and include a statement that the Board is ready and willing to respond with assistance regarding this matter.

A motion was made to accept Trustee Kaldor’s requests. **Approved.** (M.S.C. – Santos/Kaldor, 6-1-2, Taylor/Krytzer absent)

- 6.1 Adoption of Resolution No. 3702 denying change in status from a Service Retirement to a Service-Connected Disability (SCD) Retirement application for **Michael Hahn**.

6.2 Approval of Minutes

- a. Monthly Board meeting held on May 5, 2011.

6.3 Approval of Travel/Conference Attendance

- a. Sean Bill
 - Skybridge Alternatives Conference –SALT, Bellagio, Las Vegas – May 11-13, 2011
 - IMN 16th Annual Public Funds Summit, Hyatt Regency, Huntington Beach, CA – March 14-15, 2011 (Monday, March 14th only)
- b. Barbara Hayman - Technology Review, San Mateo, CA - May 18, 2011.
- c. Heidi Poon
 - Clean & Green Investment Forum, The Hotel Nikko, San Francisco, CA – June 6-7, 2011.

6.4 Approval of Monthly Expenses

- a. Plan Expenses for April 2011.

6.5 Return of Contributions

- a. Voluntary
- b. Involuntary

6.6 Communication/Information

- a. Memo to Mayor and City Council from Councilmember Donald Rocha, regarding “Retirement Reform”, dated May 20, 2011.
- b. Information memo to Mayor and City Council from Retirement Services regarding the Annual Required Contributions for the Police and Fire Department Retirement Plan, dated April 19, 2011. (*Deferred from May 5, 2011*)
 - Memo from Susan Devencenzi, Sr. Deputy City Attorney regarding Allocation of Contribution Rates between City and Members, dated September 17, 1997.
 - Allocation of Actuarial Surplus to Contributions by Conflicts Counsel Russ Richeda and Drew James of William M. Mercer, Inc., Board Retreat Presentation dated September 11, 1998.
 - Memo from Russ Richeda regarding Allocation of Actuarial Surplus to Contribution Rates, dated February 19, 1998.
 - Memo from Russ Richeda regarding Issues Concerning Retirement Contribution Rates, Allocation of Retirement Contribution Rates and Allocation of “Actuarial Excess”, and related issues, dated October 30, 1997.
- c. Memo from Debra Figone, City Manager entitled Lump Sum Payment of Employer Retirement Contributions and Establishment of the Prepayment Amount for Fiscal Year 2011-2012, dated April 18, 2011. (*Deferred from May 5, 2011*)
- d. Letter to Mayor and City Council from David Bacigalupi, Chair, Board of Administration of the Police & Fire Department Retirement Plan regarding SRBR, dated April 19, 2011.
- e. Benefits Review Forum held on April 2011.
- f. Benefits Review Forum held on May 2011.
- g. Report from Congressional Budget Office (CBO) regarding “The Underfunding of State and Local Pension Plans”, dated May 2011.
- h. The 2011 Pension Bridge Annual Educational Travel Report – by Sean Bill.

*Estimated

7. **EDUCATION & TRAINING**

7.1 **Notification of CalAPRS' Trustees Round Table**

- a. Trustees Round Table, DoubleTree Hotel, 2050 Gateway Place, San Jose, - October 14, 2011.

7.2 **Notification of IFEBP Training**

- a. International Investing and Emerging Markets, Wharton West, San Francisco, CA, Monday, July 25, 2011 through Wednesday, July 27, 2011.
b. CAPP – Employee Pensions – **Part I**, Ernest Morial Convention Center, New Orleans, LA, Saturday, October 29-30, 2011.
c. CAPP – Employee Pensions – **Part II**, Metro Meetings Center, Boston, MA, Thursday, June 21-22, 2012.
d. CAPP – Employee Health – **Part I**, Ernest Morial Convention Center, New Orleans, LA, Saturday, October 29-30, 2011.
e. CAPP – Employee Health – **Part II**, Metro Meetings Center, Boston, MA, Thursday, June 21-22, 2012.

7.3 **Notification of SACRS Training**

- a. State Association of County Retirement System (SACRS), Public Pension Investment Management Program, UC Berkeley, Monday, July 11-13, 2011.

• **PROPOSED AGENDA ITEMS**

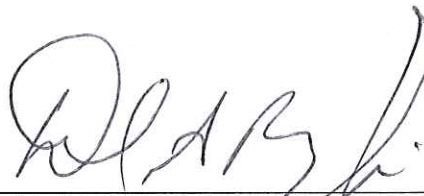
Trustee Santos suggested Board Meeting location be returned to the Retirement Services Board Room and discuss Dr. Das' position with Retirement Services. Chair Bacigalupi and Trustee Kaldor suggested these topics be covered at the Board Retreat.

• **PUBLIC COMMENTS**

None

• **ADJOURNMENT**

2:41 p.m.



DAVID BACIGALUPI, CHAIR
BOARD OF ADMINISTRATION

ATTEST:



RUSSELL U. CROSBY
DIRECTOR, RETIREMENT SERVICES
SECRETARY, BOARD OF ADMINISTRATION

*Estimated