

# FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM

## Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

MAY 13, 2010

### CALL TO ORDER

The Board of Administration of the Federated City Employees' Retirement System met at 8:30 a.m. on Thursday, May 13, 2010, in regular session at City Hall in the Committee Room Wing 118/119, 200 East Santa Clara Street San José, California 95113.

### ROLL CALL

#### PRESENT:

Matt Loesch	Chair/Trustee
David Busse	Vice Chair/Trustee
Ed Overton	Trustee
Pete Constant	Trustee
Ash Kalra	Trustee
Arn Andrews	Trustee

#### ABSENT:

Jeffrey Perkins	Trustee
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#### ALSO PRESENT:

Russell U. Crosby	-Secretary/Director	Mike Moehle	-Staff
Mollie Dent	-City Attorney	Donna Busse	-Staff
Russell Richeda	-Conflicts Counsel	Steve Barnett	-PBCE
Lisa VonTress	-Staff	Nick Emanuel	-Attorney
John McBride	-Attorney	Raul Guerrero	-Airport
Bill Meyers		Sharon Erickson	-City Auditor
Robin Opheim	-City Auditor's Office	Leanna Bieganski	-Airport
Allen DeMers	-Human Resources	Gerry Chappuis	-MEF
Karin Carmichael	-Staff	Amanda Ramos	-Staff
Toni Johnson	-Staff	Allison Suggs	-OER
Ron Kumar	-Staff	Veronica Niebla	-Staff
Rhonda Snyder	-Staff	Linda Dittes	-AFSCME
Elizabeth Pappy	-Attorney		

### REGULAR SESSION

Chair Loesch called the meeting to order at 8:33 a.m.

### ORDERS OF THE DAY

Chair Loesch made the following changes to the agenda:  
Item numbers 14 and 10 to be heard first.

#### **14. Request for action on City Manager's memo requesting the System's actuary to calculate a discounted contribution amount for the City's lump sum contributions for Fiscal Year 2010-2011.**

*Mr. Johnson* stated that the City Manager requested the Board to direct the Actuary to calculate the discounted contributions as similar to prior years. He noted that the Finance Department has been working with the budget office regarding the City's cash flows and is looking at short-term borrowing as an option for the pre-funding. The short-term borrowing will have a low interest rate and a Request for Proposals has been issued for a private placement. If a loan is secured, it will not affect the pre-funding.

*Mr. Johnson* added that as the Mayor and the City Council have directed staff to negotiate compensation concessions where the employees would pay part of the employer contributions. It is recommended that the Board direct Retirement staff and the Actuary to work with City Administration on this directive.

Responding to a question from *Trustee Overton*, *Mr. Johnson* stated that having employees pay part of the service cost for the contribution rates is currently under negotiation. *Ms. Dent* stated that, once negotiations are completed, legal staff will clarify if actions can be completed within the charter or require amendments to the Municipal Code.

(M.S.C. Overton/Busse) **Motion Approved** for action on City Manager's memo 6-0-1 (Perkins-Absent).

- 10. Authorize the Secretary to execute an agreement with Macias Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011 and 2012 with two one-year extension options for fiscal years ended June 30, 2013 and 2014, not to exceed annual compensation of \$45,076.00 for years one and two and with annual increases adjusted by CPI in years three through five, not to exceed \$239,361.00 for potential five year term.**

*Ms. Erickson* stated that the City and other public agencies, including retirement plans, issue a Comprehensive Annual Financial Report (CAFR) where an audit firm audits the Plan. Macias, Gini & O'Connell LLP (MGO) is an experienced government audit firm and is the principle auditor for some of the largest cities and public retirement systems in California. MGO has assigned a new engagement partner, Richard Green, to the Retirement Service's engagement as well as Steve Dice as the Consulting Actuary on the engagement.

*Ms. Erickson* stated that under the proposed agreement with MGO and the Federated Plan, the fee would be encumbered within the Federated budget and future year's audit services would be subject to the approval of the annual budget by the Federated Board. If the Board enters into an agreement with MGO, it does not necessarily commit the Board for the entire five years.

*Member Overton* asked for an explanation regarding the 16% reduction in MGO's fees to the City while there is a 20% increase in fees for the Federated retirement plan.

*Ms. Erickson* replied that the fees across the board for various entities saw decreases averaging 16%. MGO is devoting additional resources to the two retirement plan for more in depth work which is reflected in the 20% increase in fees.

(M.S.C. Busse/Constant) **Motion Approved** 6-0-1 (Perkins-Absent).

**RETIREMENTS –**

**1. Disability Retirements**

- a. Matthew Harvey**, Animal Control Officer, General Services. Request for Service-Connected Disability, 1.75 years of service. Mr. Harvey was present and represented by Attorney Elizabeth Pappy.

**MEDICAL REPORTS – DR'S NAME**

**DATED**

JOHN E. MASSEY, M.D.	1/20/09 : 8/7/08 : 5/1/08 : 7/24/06
MALIHEH MASSIH, M.D.	6/22/07
TEAM CONFERENCE REPORT	6/15/07
RICHARD ABEND, D.C.	5/2/06 : 12/14/05 : 11/15/05 : 1/28/05 : 12/22/04
BILL WHITING, ME.D. – REHAB COUNSELOR	12/29/05
JOHN HOROWITZ, D.C.	10/18/05 : 2/23/05 : 2/22/05 : 2/2/05 : 10/18/04 : 8/2/04
LAWRENCE POREE, M., MPH, PHD.	8/15/05 : 5/31/05

MEGHAN THOMAS, M.D.	5/3/05 : 9/30/04
JACK FUNAMURA, M.D.	12/1/04 (MRI) : 12/104 (CT SCAN)
JOSEPH FRANKS, M.D.	10/11/04
EDWARD MENGES, M.D.	10/7/04
MATHEW TRAN, M.D.	6/22/04
HARJIT SEKHON, M.D.	12/9/03
ROSEMARIA GENNUSO, M.D.	11/13/03 : 8/20/03
JAMES J. KOHUT, M.D.	7/29/03
JANELLE RASI, M.D.	7/11/03
JOSH NOVIC, M.D.	4/18/03
MICHAEL COULSON, M.D.	2/27/03
WORKERS' COMPENSATION AWARD DOCUMENT. (MR. MEYERS REQUESTED)	4/7/06
NICHOLAS G. EMANUEL, ATTY FOR APPLICANT -MEMORANDUM OF LPOINTS	7/8/09

**MEDICAL REPORT FROM BOARD'S DIRECTOR**

**DATED**

RAJIV DAS, M.D.	7/31/09 : 1/29/09 : 9/20/06 : 7/31/06 : 5/1/06 : 12/21/05
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Additional medical reports were Provided to the Board by Attorney Pappy.

**MEDICAL REPORT - DR'S NAME**

**DATED**

John Horowitz, D.C.	March 12, 2004
Isys Solutions (Kris Donaldson, RN	March 31, 2004 (3 pages)
Lawrence Poree, M.D.	April 27, 2004 (2 pages), May 13, 2004, June 16, 2004, July 27, 2004

*Ms. Pappy* reviewed her legal brief and went through a series of questions with Mr. Harvey regarding the incident that caused his injuries and the subsequent interactive placement process.

*Member Constant* commented on his disappointment with the Human Resources Department (HR) and his frustration with the City repeatedly writing letters notifying employees that they are voluntarily separating when it is not voluntary. To him the failure of the City to deal with injured employees, in effect, places the burden on the Federated Board of Administration to make a determination as to whether this person qualifies for benefits that will affect the retirement plan.

*Member Constant* made a motion to discontinue the discussion in order for the Director of HR to join the meeting to discuss these issues. Mr. Danaj joined the meeting.

*Member Constant* explained how the Board has a limited scope of jurisdiction and limited criteria for granting disability and the Board receives conflicting information from the various participants in the process.

*Mr. Danaj* explained that he could not address the specific case, but could address the broader question. There are conflicts as (HR) relies on the restrictions provided by the injured employees' physician and these restrictions are typically more extensive than the Board Physician's restrictions. These conflicting sources of restrictions lead to this issue at hand. HR welcomes the study session and will play an active role in the discussion of the process.

The Trustees agreed that a study session regarding the disability process should be scheduled.

(M.S.C. Constant/Andrews) **Motion to defer for one month 6-0-1 (Perkins-Absent).**

**CONSENT CALENDAR (Items 2 thru 9)**

(M.S.C. Busse/Constant) **Motion to approve 6-0-1 (Perkins-Absent).**

**2. Request for approval of Service Retirements**

- a. **Suchet K. Bhatnager**, Associate Architect, Public Works, effective May 15, 2010; 11.87 years of service.
- b. **Bruce E. Cannon**, Public Safety Radio Dispatcher, Fire Department, effective May 2, 2010; 19.69 years of service (with reciprocity).
- c. **Deborah Dean**, Senior Office Specialist, Parks Recreation and Neighborhood Services, effective May 29, 2010; 30.04 years of service.
- d. **Ruvi Maria Lopez**, Senior Office Specialist, Environmental Services Department, effective May 1, 2010; 23.74 years of service.
- e. **David John Mathiasmeier**, Senior Architect, Public Works, effective May 1, 2010; 10.12 years of service.
- f. **Gary L. Okazaki**, Recreation Superintendent, Parks, Recreation and Neighborhood Services, effective April 17, 2010; 30.03 years of service.
- g. **Raymond Ruiz**, Equipment Mechanic II, General Services, effective May 15, 2010; 29.35 years of service.
- h. **Robert A. Sgambati**, Maintenance Superintendent, Department of Transportation, effective May 29, 2010; 25.73 years of service.
- i. **John L. Singh**, Maintenance Worker II, Department of Transportation, effective May 15, 2010; 28.58 years of service.
- j. **Victoria J. Talbot**, Staff Specialist, General Services, effective April 10, 2010; 20.24 years of service.
- k. **Linda E. Webster**, Library Clerk PT, Library, effective May 1, 2010; 23.21 years of service.
- l. **Arthur Zapien**, Maintenance Worker II, Department of Transportation, effective May 15, 2010; 37.50 years of service.

**3. DEFERED VESTED**

- a. **John Guthrie**, Finance Director, Finance, effective May 4, 2010; 8.76 years of service (with reciprocity).
- b. **Fernando Mendoza**, Maintenance Assistant, General Services, effective May 29, 2010; 26.48 years of service.
- c. **Steven H. Parker**, Senior Landscape Architect, Public Works, effective May 30, 2010; 7.02 years of service.
- d. **William James Potter**, Assistant Director, Airport, effective May 11, 2010; 12.64 years of service (with reciprocity).
- e. **James Raver**, Technical Services Supervisor, Convention, Arts and Entertainment effective May 20, 2010; 5.0 years of service.

**4. Board Minutes**

- a. Approval of Regular Meeting Minutes of April 8, 2010.

**5. Return of Contributions**

- a. Voluntary
- b. Involuntary - NONE

**6. Investment Summary Report**

- a. Report on Investments as of March 31, 2010.

**7. Approval of Monthly Expenditures**

- a. Report of Federated Retirement Plan expenses for March 2010.

**8. Investments**

- a. Adoption of Resolution number 6562 acknowledging receipt of report on investments for the period March 1<sup>st</sup> thru 31<sup>st</sup>, 2010.

**9. DEATH NOTIFICATIONS (Moment of Silence)**

- a. **Donald Atkinson**, Retired General City Attorney, retired 9/17/83, died 2/28/10. No survivorship benefits.
- b. **Frank S. Cirigliano**, Retired Construction Manager, retired 6/20/87, died 3/21/10. Survivorship benefits to Nora Cirigliano, spouse.
- c. **Glenn C. Heath**, Retired Senior Custodian, retired 10/04/87, died 3/14/10. No survivorship benefits.
- d. **Carlotta Redmond**, Retired Police Data Specialist II, retired 9/15/00, died 3/18/10. No survivorship benefits.
- e. **Dale O. Sanders**, retired Equipment Maintenance Supervisor, retired 12/20/86, died 4/10/10. Survivorship benefits to Joan Sanders, spouse.
- f. **Tony D. Swanson**, Retired Inspector II, retired 4/9/05, died 3/31/10. Survivorship benefits to Rosalinda Swanson, spouse.

**OLD BUSINESS/DEFERRED-CONTINUED ITEMS**

- 11. Authorize the City Attorney to negotiate and execute a contract with Ice Miller LLP for a three-year term commencing upon execution of the Agreement at a cost to the Federated City Employees' Retirement System of \$35,000.00 total for legal services related to Plan tax qualification review.**

*Ms. Dent* explained that Ice Miller LLP was the highest ranked RFP respondent. Their costs are consistent with their proposal plus a small contingency and are reasonable amongst the RFP finalists. The \$35,000 is the cost to the Federated Plan.

(M.S.C. Overton/Constant) **Motion to approve 6-0-1 (Perkins-Absent).**

**NEW BUSINESS**

- 12. Discussion of Disability Process Training for Trustees.**

*Ms. Dent* explained that this item is on the agenda to determine if the Board would prefer a special meeting or study session on disability issues versus discussing them at a regular meeting and to get direction from the Board regarding the special issues regarding disability retirements they may be interested in.

*Member Andrews* responded that, as a new Board member, he shares the frustration over the inconsistencies in the process and prefers a separate study session to review and discuss the process.

(M.S.C. Andrews/Kalra) **Motion to request the Board Chair and Attorneys to work on a draft agenda and to arrange a special study session on the disability process 6-0-1 (Perkins-Absent).**

13. **Adoption of Resolution No. 6563 adopting findings and decision in the matter of the re-hearing of William Meyers for a service-connected disability retirement.**

(M.S.C. Overton/Constant) **Motion to approve 6-0-1 (Perkins-absent).**

15. **Approval of request from Linora Casarez, ex-spouse of Eugene Casarez, active custodian, for Monthly Payment Option, effective June 27, 2010 under Chapter 3.28, Part 23 of the San Jose Municipal Code.**

(M.S.C. Constant/Overton) **Motion to approve 6-0-1 (Perkins-absent).**

16. **Discussion of Impact of Budget Reductions on Valuations.**

*Member Loesch* explained that he requested this item be agendaized as there are discussions throughout the City regarding what could happen with employee status, pay reductions, etc. He wanted to understand the potential consequences of these situations on the annual actuarial valuations.

*Mr. Moehle* explained that staff analyzed some potential scenarios and their impacts on actuarial valuation results.

17. **Oral update on Implementation of New Governance Structure.**

*Ms. Dent* reported that the City Attorney's Office plans to have the ordinance drafted soon and to the City Council in June.

18. **Request approval for the Board Secretary to negotiate and execute the second amendment to the agreement with Gabriel Roeder Smith and Company, Board's Actuary, for a total not to exceed amount of \$417,000.00.**

(M.S.C. Constant/Busse) **Motion to approve 6-0-1 (Perkins-absent).**

**STANDING COMMITTEES / REPORTS / RECOMMENDATIONS**

**Committee for Investments (Perkins/Loesch/Andrews-alternate/Busse)**

19. Summary of January 28, 2010 meeting.  
(*Note & File*)
20. Summary of March 30, 2010 meeting.  
(*Note & File*)

**Committee of the Whole (Full Board) – next meeting: May 27, 2010**

**Policy Committee (Busse/Overton/Constant – alternate/Loesch)**

21. Summary of March 26, 2010 meeting  
(*Note & File*)
- a. Approval of the Comprehensive Travel Policy as recommended by the Policy Committee.  
(*deferred to June 2010*)

**COMMUNICATION/INFORMATION**

22. Benefits Review Forum Report for April 2010.  
(Note & File)

**EDUCATION AND TRAINING**

- a. CALPRS Trustee's Round Table – June 4, 2010, Holiday Inn 1740 N. First St. San Jose.

**FUTURE AGENDA ITEMS**

Member Loesch added the following future agenda items:

- a. Request for the Policy committee to report back its review schedule of all existing policies;
- b. Request for the Policy Committee to report on AB 1584, Regulation of Placement Agents, as a policy needs to be in place by June 30. *The Secretary* stated that there is a draft circulating and it will be on the June Board agenda;
- c. Request for staff to review the reports created for the Board and provide a recommendation in the summer regarding streamlining staff reports;
- d. Request for staff to prepare a report of the audit services for fiscal years June 30, 2011 and 2012, regarding retaining MGO or preparing an RFP for the Fall.

**PUBLIC/RETIREE COMMENTS - Comments from the Public**

Tom Riley from OE3 paid honor to Dale Sanders who passed away in April 2010.

**ADJOURNMENT**

There being no further business, **Chair Loesch** adjourned the meeting at 10:05 a.m.

  
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**MATTHEW LOESCH, P.E., CHAIR**  
**BOARD OF ADMINISTRATION**

**ATTEST:**

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