

FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

June 11, 2009

CALL TO ORDER

The Board of Administration of the Federated City Employees' Retirement System met at 8:31 a.m., on Thursday, June 11, 2009, in regular session at the Department of Retirement Services, 1737 N. First St., Suite 600 - San José, California.

ROLL CALL

Present:

DAVID BUSSE

CHAIR, Trustee

Jeffrey Perkins

Trustee

Patrick Skillsky

Trustee

Pete Constant

Trustee

Ed Overton

Trustee

Ash Kalra

Trustee

NOT PRESENT:

Matt Loesch

Trustee (Excused)

ALSO PRESENT:

Russell U. Crosby	-Secretary/Director	Toni Johnson	-Staff
Russ Richeda	-Attorney	Mollie Dent	-City Attorney
Tamasha Johnson	-Staff	Carmen Racy-Choy	-Staff
Debbi Warkentin	-Staff	Allison Suggs	-OER
Dan Haynes	-SJPD	Sandra Stultz	-SJPD
Ron Kumar	-Staff	Ami Zibert	-SJPD
Rhonda Snyder	-Staff	Alex Gurza	-OER
Veronica Niebla	-Staff	Ali Amiry	-Staff
Carol Bermillo	-Staff	Sandra Holloway	-SJPD
Jesselle Holcomb	-Staff	Ceara O'Fallon	-Staff
David Bullock	-MGO	Maria Loera	-Staff
Linda Dittes	-AFSCME	Yolanda Cruz	-MEF
Bob Leininger	-SJREA	Karen LeDoux	-OED
Karin Carmichael	-Staff	Paul Cahill	-SJPD
Allen DeMers	-HR	Rebecca Mitic	-SJPD

REGULAR SESSION

Chair Busse called the meeting to order at 8:31 a.m.

ORDERS OF THE DAY

Chair Busse stated first on the agenda would be a closed session item. He adjourned into closed session.

CLOSED SESSION –

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

pursuant to Government Code Section 54956.8

Property: Milpitas Warehouse 746-876 South Milpitas Boulevard

Negotiator: Leslie Horenburger, MIG Realty Advisors, Inc.

(via telephone)

Under negotiation: Price and terms of payment

Probable Value of Property: Exceeds \$1 million

Ms. Dent stated there was nothing to report out from closed session.

Chair Busse resumed the public session at 9:01 a.m.

(Out of Order)
NEW BUSINESS

20. Approval of Macias Gini & O'Connell's 2009 Audit Services Plan.

Mr. Bullock introduced himself as the new Engagement Director for MGO, and Annie Louie will be assisting him. Linda Hurley was overseeing the auditing of this Plan, and she has taken a different opportunity with the Company. He has been performing audits for the City of San Jose since 2000, so he is familiar with this Plan, and he anticipates a smooth transition. He presented the 2009 Audit Plan and stated the document is very comprehensive.

(M.S.C. Overton/Constant) to approve. Motion carried 6-0-1. (Absent: Loesch).

18. Acceptance of GRS' Report on Actuarial Valuation of Retirement Health Benefits as of 30 June 2007 (GASB 43/45) and authorization to forward on to City Administration.

Mrs. Racy-Choy stated the GRS valuation is GASB compliant, and it is based on the Municipal Code, which refers to the 50/50 cost sharing between the City and employees. This valuation is for reporting purposes and is informational, as the 6/30/06 scheduled rates are already in place.

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

(Back on Agenda)
RETIREMENTS

1. **Disability Retirements for Hearing**

- a. **Lorelei Crescini**, Messenger Clerk, Police Department. Request for a service-connected disability retirement effective August 24, 2008; 16.71 years of service.

For the record **Lorelei Crescini** was present and was self-represented. The following medical reports were read into the record:

MEDICAL REPORTS - DR'S NAME	DATED
1. RONALD WHITMORE, M.D.	08/19/08 (TWO RPTS), 06/27/08 (TWO RPTS), 05/21/08 (TWO RPTS), 04/17/08, 03/31/08, 03/27/08, 11/13/07
2. ROLAND WINTER, M.D.	04/09/08
3. CLIFTON CHOO, M.D.	02/21/08
4. WILLIAM IRVING, M.D.	01/22/08
5. HELEN CHUNG, M.D.	12/28/07
6. THOMAS OLIVER, D.C.	11/05/07, 10/02/07
7. STEPHEN DAVIS, M.D.	01/13/09, 08/21/07, 08/15/05
8. EDWARD CHENG, M.D.	08/03/07, 07/12/07
9. ZHONG LING, M.D.	07/06/07
10. VIJENDRA GOVIND, M.D.	02/22/07 (TWO RPTS)
11. CHARLES BUCKERFIELD, M.D.	01/17/07, 03/02/06, 01/17/06
12. DENNIS CHU, M.D.	10/12/06, 09/26/06, 06/12/06, 05/02/06, 04/18/06, 11/30/05
13. JEFFREY RUEDA, M.D.	08/28/07
14. GEORGE KHOURY	05/03/06
15. THOMAS MUNYER, M.D.	02/21/06
16. MARIA DAIS, M.D.	06/10/05
17. CHERYL TANOUYE, M.D.	05/26/05 (TWO RPTS)

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	05/05/09, 10/14/08

Ms. Crescini stated she is unable to do the things she used to in the past. She continued that Dr. Das' report

reflects that there is no identifiable pathology to explain the restricted range of motion. The applicant believes there is a difference of opinions between her medical team and Dr. Das.

Dr. Das stated the restrictions are based on the applicant's complaints, which are subjective and there are no findings to support the level of pain complained about. In terms of contributing factors, there could be pain and discomfort associated with driving long distances, but not a big contributor. The prior ACL tear is a big contributor, but most of the medical data provided the physicians agree that the injuries do not cause a functional problem and there is no reason she could not work in a full duty capacity.

There was further discussion regarding the differing physician opinions and clarification of the process.

(M.S.C. Overton/Skillsky) to approve. Motion carried 5-1-1. (Absent: Loesch; No: Perkins).

(Out of Order)

Ami Zibert, Public Safety Dispatcher II, Police Department. Request for a service-connected disability retirement effective January 16, 2008; 10.89 years of service.

For the record **Ami Zibert** was present and was represented by *Mr. Butts*. The following medical reports were read into the record:

MEDICAL REPORTS – DR' S NAME	DATED
JOHN E. CARR, M.D.	11/13/2008; 03/08/2007 (2 RPTS)
GORDON A. BRODY, M.D.	02/07/2008; 01/31/2008 (4 RPTS); 01/10/2008; 11/29/2007 (2 RPTS); 07/30/2007; 06/07/2007; 04/19/2007; 03/01/2007; 12/28/2006; 10/20/2006; 08/17/2006; 05/25/2006; 10/27/2005
MARK CULTON, M.D.	07/20/2007
JOEL SAAL, M.D.	07/03/2007; 06/27/2007; 05/31/2007
JANA CRAIN, M.D.	08/11/2006
ROBERT SCHIER, M.D.	08/10/2006

MEDICAL REPORT FROM BOARD' S DIRECTOR	DATED
RAJIV DAS, M.D.	04/03/2009; 08/06/2008; 06/09/2008; 04/02/2008

Mr. Butts stated the Disability Hearing Committee had many questions regarding the methodology for the mechanism of injury to his client, so he received a medical report from Dr. Carr that explains the injury, which he supplied to the DRS office on June 2, 2009; however he does not see it enclosed within the current packet.

The Board discussed the process for submitting new evidence with legal, and with *Mr. Butts*.

Mr. Butts requested that the matter be deferred to the Committee Meeting.

(M.S.C. Constant/Overton) to defer item and to have the report from Dr. Carr as part of the medical packet for discussion at future meeting within the next 60 days. Motion carried 6-0-1. (Absent: Loesch).

(Back on Agenda)

Rebecca J. Mitic, Public Safety Radio Dispatcher, Police Department. Request for a service-connected disability retirement effective June 11, 2009; 12.41 years of service.

For the record **Rebecca J. Mitic** was present and was represented by *Mr. Butts*.

Mr. Butts requested this case to be deferred for the same reason cited as Zibert's case.

(M.S.C. Constant/Overton) to defer item and to have the report from Dr. Carr as part of the medical packet for discussion at future meeting within the next 60 days. Motion carried 6-0-1.

CONSENT CALENDAR (Items 2 thru 8)

(M.S.C. Loesch/Perkins) to approve Consent Calendar. Motion carried 6-0-1.

Service retirements approved:

Peter L. Burnham, June 27, 2009
Richard C. Coco, June 27, 2009
Reginald J. Kelley, May 31, 2009
Randall D. Larson, July 25, 2009
Judy P. Miller, July 25, 2009
Elizabeth Morrison, June 27, 2009
Vivian Robles, July 11, 2009
Habibollah Saiidnia, June 27, 2009
Susan T. Sakai-McClure, July 11, 2009
Tina Marie Salas, July 25, 2009
Monica L. Schefski, June 19, 2009
Hannah R. Slocum, July 11, 2009
Robert Strand, June 27, 2009

Deferred vested retirements approved:

Wayne A. Bellina, July 19, 2009
Carla J. Ruigh, June 2, 2009
Judy York-Bertier, July 7, 2009

NonService disability retirements approved:

Paul R. Cahill, October 30, 2008

DEATH NOTIFICATIONS (Item 9 - Moment of Silence)

The Chair stated there would be a moment of silence for the death notifications.

OLD BUSINESS (Item 11-14.1)

11. Travel Audit compliance update.

Mrs. Niebla stated a memo has been provided on the progress of compliance with the audit recommendations. There are currently three items that remain outstanding.

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

12. Approval of revised Travel & Gifts Policy and adoption of Resolution No. 6452 authorizing the Secretary to approve travel requests where Board action cannot be taken prior to the need for the travel.

(M.S.C. Kalra/Constant) to approve. Motion carried 6-0-1.

13. Oral Update and direction on the Actuarial RFQ.

Mrs. Racy-Choy stated a few RFP's were received, but they would like to request more, and GRS' contract has already been extended to use on a month to month basis.

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

14. Discussion of impact of mandatory reduced work week on Retirement Fund and recommendation to Council on ordinance related to implementation of agreements with bargaining units for mandatory reduced work week.

Ms. Dent stated last month the Board discussed OER's memo regarding options available for implementing contributions when employees take unpaid time off. One of those options is a proposed amendment to the Municipal Code. June 16, 2009 this ordinance will go to City Council, and the second read will occur on June 23, 2009, to be effective July 17, 2009. She did want to point out that tax counsel stated the need for the time off to be mandatory.

Mr. Gurza stated he did not want an ordinance specific to one unit, but since this is the first of this type of agreement coming forward, he did want it to have the ability to be inclusive to others that may negotiate to make contributions in the future, and he would like to point out that there are unrepresented members as well.

(M.S.C. Constant/Overton) to approve recommending ordinance with modifications to Council. Motion carried 6-0-1.

14.1. Request for Board approval of the following trustees'/staff attendance at the educational conferences listed:

<u>Trustee/Staff</u>	<u>Conference Name/Location/Dates</u>
Carmen Racy-Choy	Plan Sponsor & Minority Manager Consortium; June 17-18, 2009 in Los Angeles

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

NEW BUSINESS (Items 15-22)

15. Report on cash flow and liquidity analysis (**Deferred to August**)

16. Adoption of Resolution No. 6453 setting new rates of contribution to be effective June 28, 2009.

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

17. Adoption of a Resolution No. 6451 adopting findings and decision denying the application of Marley Delgado for a service-connected disability retirement.

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

(Out of Order)

19. Informational presentation regarding net vs. gross investment return assumptions.

Mrs. Racy-Choy discussed the actuarial assumption and net investment return assumption. She stated the net actuarial assumption only looks at the benefits; this did not include the SRBR. The net rate of return assumption needed to be roughly 9.15% to pay administrative expenses, investment fees, and SRBR, in order to have the targeted 8.25% necessary to pay benefits. The reason the actuary can make a net rate of return assumption is because the benefit payments and expense outflows for the Plan need to be equal to the contributions and the gross investment income or inflows to the Plan. The benefit payments are based on an 8.25% assumption, it includes the benefits reserved by actuary, so it excludes the SRBR transfers; which is the way GRS calculates the investment return. *Mrs. Racy-Choy* wanted the Board to become aware of this gap between the investment performance and the actuarial assumption, which is roughly 90 basis points or a break even target of 9.15%.

Chair Busse asked why the actuary would include the SRBR into assumptions, if that account exists only if there are excess earnings.

Mrs. Racy-Choy stated that while he is correct that the SRBR is only used for excess earnings, actuarially there is no such thing as excess. When you are skimming off the top in good years, the long term average is lowered

so there is a cost associated with the SRBR.

Ms. Thompson stated the investment return assumption tells us how much experience is recognized for the capital markets to fund the benefits. She agreed with Mrs. Racy-Choy that an appropriate net assumption, which is net of fees for investment managers, and is reduced by investment earnings to get the 8.25%. The underlying question is net versus gross, and generally there is no preference between the two. The current method uses an implicit expense assumption, so in order to meet the actuarial assumed rate of 8.25%; the fund must earn that amount net of expenses. It is important to distinguish how we assume expenses, the complication is in the implicit (net rate) when vendor information is received they are using gross values, so that amount must be translated.

Member Perkins stated he thought the actuary had factored in the SRBR and administrative expenses. He believes that the expectation to earn a higher rate of return will have a huge impact on the unfunded liability.

Ms. Thompson stated the SRBR and administrative expenses were added to the normal cost and are not part of the calculation method. The 90 basis points staff referenced was not calculated by GRS. Staff set up an option pricing model to calculate the cost of SRBR as 30 basis points. The SRBR is a pass through in the valuation reports for liabilities, so the 8.25% did not get reset with a margin for the SRBR. Typically actuaries are not equipped to calculate the cost to prefund SRBR.

Chair Busse stated according to what has been explained, even when the plan makes 8.25%, it really only made 7.75%, if the 90 basis points are right.

Mr. Leininger stated he would like to see where the calculations for the 30 basis points for SRBR were performed, since that is 1/3 of the costs, which seems excessive.

Mrs. Racy-Choy stated she can provide a spreadsheet and analysis with the SRBR calculations.

21. Discussion and action on investment manager's fee disclosure, financial viability, and trustee conflict of interest disclosure

This item was deferred to August, since it was at the request of Vice-Chair Loesch, who is absent today.

22. Approval for the Secretary to negotiate and execute the Second Amendment to the Agreement with The Wilfred Jarvis Institute for team building and strategic planning consulting services for a term ending June 30, 2010.

(M.S.C. Overton/Skillsky) to approve. Motion carried 6-0-1.

STANDING COMMITTEES / REPORTS / RECOMMENDATIONS

23. **Committee for Investments (Perkins/Loesch/Busse – alt/Constant)-** Next mtg 6/25/09

24. **Committee of the Whole (Full Board) –** Next meeting 6/25/09

25. **Policy Committee (Busse/Overton/Constant – alt/Loesch)-** last mtg 4/20/09

EDUCATION AND TRAINING

26. PUBLIC/RETIREE COMMENTS

Mr. Leininger stated regarding Item 8d on the agenda, the matter of the increase in retiree insurance rates, he would like to see this Board take action such as was done by the Police & Fire Board. He would request that the Federated Board send a letter to City Council requesting they do not go forward with implementation of new rates, as this is not a good process because it is not easy for retirees to go out and obtain new life insurance.

The Secretary stated Human Resources decided to split the two premiums, which the City subsidizes the retiree portion through subsidy, and is a savings of \$130-150,000 to the General Fund.

Ms. Dittes stated the union has filed a grievance with the Office of Employee Relations. She does not believe the life insurance subsidy should be taken away since the bargaining contract states all benefits under contract are to remain for the duration of that contract.

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

FUTURE AGENDA ITEMS

ADJOURNMENT

There being no further business, at 10:30 a.m., **Chair Busse** adjourned the meeting.

DAVE BUSSE, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

RUSSELL U. CROSBY, DIRECTOR
BOARD OF ADMINISTRATION