

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

December 7, 2006

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:44 a.m., on Thursday, December 7, 2006, 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

KENNETH HEREDIA, VICE CHAIR

BILL BRILL

LARRY LISENBEE

BRET MUNCY

CINDY CHAVEZ

Fire Employee Representative

Retiree Representative

Civil Service Representative

City Administration Representative

Police Employee Representative

City Council Representative

ALSO PRESENT:

Edward F. Overton -SECRETARY / DIRECTOR

Russ Richeda -Saltzman & Johnson

Roger Pickler -Staff

Tamasha Johnson -Staff

Donna Busse - "

Karin Carmichael -Staff

Carol Bermillo -Staff

Judy Powell -Staff

Toni Johnson -Staff

Aracely Rodriguez -OER

Christopher Platten -Local 230

Mike Rosingana -Retiree

James Chadwich -SJ Mercury News

Martin Hogan -SJPOA

Linda Charfarous -SJFD

Mike Maley -Segal

Tom Webster -Staff

Susan Devencenzi -City Attorney

Debbi Warkentin -Staff

Udaya Rajbhandari - "

Ron Kumar - "

Amanda Ramos -Staff

Jim Jeffers -Attorney

Mike Pribula -Staff

Maria Loera -Staff

Susan Perriera - "

Tom Lowman -Actuary – Local 230

Bianca Lin -Bartel Associates

Marvin Coffey -SJFD

Kerry Burns -SJFD

Andy Yeung -Segal

Randy Sekany -FF Local 230

REGULAR SESSION

ORDERS OF THE DAY

The Chair called the meeting to order at 8:34 a.m, he stated that Item 7 is time certain at 9 am.

RETIREMENTS

Service

Pedro R. Aguilar, Jr., Sergeant, Police Department. Request for Service Retirement effective December 17, 2006; 28.19 years of service. **(SCD Pending)**

(M.S.C. Muncy/Brill) to approve application. Motion carried 5-0-2 (Cortese Absent/Chavez arrived at 9:24 am).

James Aguirre, Lieutenant, Police Department. Request for Service Retirement effective December 30, 2006; 29.63 years of service.

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

Frank D. Dominguez, Police Officer, Police Department. Request for Service Retirement effective December 16, 2006; 25.81 years of service.

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

Todd F. Martin, Lieutenant, Police Department. Request for Service Retirement effective December 30, 2006; 31.49 years of service. **(SCD Pending)**

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

Paul A. Panighetti, Sergeant, Police Department. Request for Service Retirement effective December 30, 2006; 21.75 years of service.

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

Disabilities – None

Change in Status

Marvin M. Coffey, Fire Captain, Fire Department. Request for change to Service-Connected Disability Retirement effective January 28 2006; 28.03 years of service.

Retired Fire Captain Coffey was present and was represented by *Jim Jeffers*.

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

| <u>Doctor's Name</u> | <u>Report Date</u> |
|-----------------------------|---|
| Patrick McCreesh | 2/1/06; 3/8/06; 6/6/06; 7/25/06 |
| Lawrence Chan | 2/16/06 |
| Jerry Kenny | 2/18/04 |
| Winston Bolger, Jr. | 3/21/94; 3/31/94; 4/1/96; 5/22/96; 2/3/98; 11/2/99; 5/16/01 |
| Steven Hurd | 10/28/93; 11/23/93 |
| A. Dipsia | 7/18/93 |
| Report of Injury | 7/9/93 |
| <u>Medical Director</u> | <u>Report Date</u> |
| Dr. Rajiv Das | 11/1/06; 11/6/06 |

Dr. Das stated that Captain Coffey has neck, low back symptoms and arthritis. His restrictions are based on the treating doctor's (Dr. McCreesh) recommendations.

Mr. Jeffers said Captain Coffey had worked part-time for several months, until his doctor told him that he was finished as a firefighter, which at that point he applied for a disability retirement. The department also does not have any long-term modified duty positions available.

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

Deferred Vested – None

DEATH NOTIFICATIONS - None

NEW BUSINESS

Approval of request from Human Resources to review the proposed City Council Statement of Policy for Retirement Services, proposed Council questions for final feedback to staff and Avery Associates related to recruitment of Director of Retirement Services.

Mrs. Gibbs represented that the City Manager requested that Human Resources move forward with filling and recruiting for the position of Director. They stated that City Council establishes its statement of policy and Council questions to create a profile for the ideal candidate and they are asking the Board to provide feedback before they take it to City Council for adopting.

Chair Skeen said that in the past the Board's handled the RFP's for all contracts, including hiring of deputy director positions up until now, so he asked what changed.

Mrs. Gibbs said that a few months ago the City experienced a significant number of executive positions, so the City Manager requested consistency in the recruiting and the firms selected and moved all recruiting to Human Resources. She thinks that it has been successful and that they are getting consistency from departments and in the hiring panels.

Chair Skeen and *Mrs. Gibbs* discussed the difficulty of recruiting for the executive positions, in particular for this department in this state; the thin pool of qualified candidates, the firm selected, and the lack of cooperation from City departments.

Mr. Bill Avery stated that there were a series of issues that occurred which he was not involved in; however the Director recruitment is very different from the deputy director recruitment. The pay scales are different, the requirements are different and there are key things being sought for the Deputy Director candidate. They have identified every public pension fund in the US with assets over \$50 million and they have already identified organization charts from other organizations. As they go through the process if there are pay issues that will come up right away. Part of the discussion is how to handle the deputy position in conjunction with the director. He feels that the director position will be easier to fill because of the way it is structured.

Member Lisenbee asked if the salary level has been reviewed.

Mrs. Gibbs stated that the Director's salary goes up to \$206k per year and the pickings are slim with most of the candidates being at the top of that pay scale. That is the City's classification range and they have not made a recommendation to change it at this time, as they have not had a problem at the Director level.

Member Heredia said he is concerned with the lack of communication the Board has with the City Manager. He has been involved with many managers and the Boards always receive very little reciprocal cooperation from the City. He also requested information about the salary and has not been contacted back yet. He feels that the process with Avery has been very dismal, and would choose not to continue with Avery for the director search. Also, the City is moved forward with making a selection and hiring a firm before communicating with the Board, with out feedback and involvement, and he would choose not to recommend going forward to Council.

Chair Skeen requested that everyone hold their thoughts and that this discussion continue after the time certain item.

(Out of Order)

Discussion of closed sessions for disability retirement hearings.

Mr. Chadwick stated that he would review some of the highpoints from his letter and the memo he received from the City Attorney's office. He said that historically, they went back two years, this Board has heard approximately 50 disability retirements; only one of them has been addressed in closed session. There were two closed sessions but they both addressed the same disability retirement. His understanding is that that is consistent with the Board. As far as they know there have been no complaints from retirees about this Board addressing disability retirements in open session. As pointed out in his letter, the San Jose Municipal Code actually says that all of the meetings of the Board will be open and public, so that is its mandate. The question that was raised the last time he was there is whether or not the Brown Act permits closed sessions to hear disability retirements and there was an opinion of the Attorney General that was discussed at the last meeting. It is addressed by the memo and his letter. He doesn't believe that the Brown Act does permit closed sessions as a general rule to address disability retirements, the Attorney General's opinion notwithstanding. Retirement is not one of the subjects that are expressly allowed to be discussed in closed session under the personnel exception, and there is no provision in the Brown Act, in fact it says that you can't imply exceptions to the rule of open meetings it has to be in the Brown Act or it's not allowed. Even under the Attorney General's analysis, if you follow it it's based on proposition that any discussion affecting status of an employee can be held in closed session, even under that analysis most of the disability retirements that you hear are a change in status disability retirement where the employee is already retired. At that point it is not affecting the status of an employee, so those retirements could not be heard in closed session under the Brown Act. The memo from the City Attorney's office addresses the Constitutional Right of Privacy, which is important to discuss. First, there is no court that has ever said that you can hold a closed session under the Brown Act simply based on the Constitutional Right of Privacy, if there is no provision in the Brown Act for holding that closed session. So, the Constitutional Right of Privacy does not itself create an exception to the rule of the Brown Act that matters have to be discussed in open session unless they are expressly allowed to be conducted in closed session under the Brown Act. The other thing to look at under the Constitutional Right of Privacy is if there is an expectation of privacy. There has to be a reasonable expectation of privacy in order for there to be a privacy right that allows the limitations on the dissemination of information, in this case because of the Board's history and the San Jose Municipal Code which expressly says that all meetings are public and open there's no expectation by people coming before the Board that there's going to be closed sessions on disability retirements. Recognize that anytime that you go into a closed session to discuss anything, in particular a claim for a benefit you are compromising the ability of the public and other stakeholders to evaluate what you're doing because they don't see the evidence, they can't assess if the decision is appropriate. What the Mercury News is asking is not for a change but just that you respect and continue the tradition that you have already established of generally holding disability retirements in open session with the occasional and very infrequent exception when there is some clear stigma or social harm that is associated an application for disability.

Mr. Richeda commented that Mr. Chadwick did not indicate in his letter that Attorney General Opinions are entitled to "great weight", and to minimize it should be corrected. Though he correctly stated that there's no case that a right of privacy trumps the Brown Act in terms of closed sessions, he expressly stated that there's no Constitutional Right of Privacy to do so, which is flat wrong. In the same way there is no case saying that it's appropriate, there is no case saying it is not appropriate. There are very strong and powerful public policies behind the Constitutional Right of Privacy that have to be considered by this Board. On the expectation of privacy that exists in the context of the Board policy and the consistent Board policy expressed in Mrs. Devencenzi's memo is that is what applicants have an expectation of. We have to weigh the different

policies, which are very competitive with one another. He feels that the current policy incorporates the exercise of this right of privacy and follows the Brown Act.

Mr. Chadwick restated some of his points mentioned.

Chair Skeen explained the reason for the letter from Mr. Chadwick and his involvement is because the Board is continuing to educate themselves and learn their authority, and in this particular instance when we can go into closed session.

Vice-Chair Heredia stated he requested this issue of closed session disability retirements because in his view when an applicant has requested a closed session the Board has granted it, nor has it been suggested to them that they have a closed session, however the reason for this stemmed from the photographer from the Mercury News was not cooperative in requests from the Board that he sustain from photos of a member. The member's attorney at that meeting also stood in front of his client to detract from the photographer. So, absent that behavior this issue would not have come up. He feels that police and firefighters have an expectation that when they come to the Board with dignity when requesting disability status due to injury while working, then when that dignity is maligned he feels he should step in. He just wants to be clear of his authority when doing so, however he is not requesting that all hearing be heard in closed session or any change at all.

Mr. Jeffers asked the Board to possibly incorporate a no camera policy in the Board meetings.

Mrs. Devencenzi stated that she would have to research that request, as her original understanding is that people are allowed to photograph and tape record public meetings, unless their actions interfere with the conduct of business.

This item is note and file.

(Back on Agenda)

Approval of request from Human Resources to review the proposed City Council Statement of Policy for Retirement Services, proposed Council questions for final feedback to staff and Avery Associates related to recruitment of Director of Retirement Services.

Mr. Danaj stated that they are present today to get the Board's feedback and the City Manager has made it very clear that he wants this Board and the Federated Board to feel that they have had an ample opportunity to participate in this process. Especially in the critical parts of it. In the recruitment, our primary purpose is to get feedback on the skills, traits, and the things that the City Manager should be taking into account as he initiates this process, and in the recruitment process that members of both Boards be participating in the panel interviews, to have the opportunity to see and interact with the candidates. The search process itself and Les' selection of Avery & Associates to lead the search process came through a separate process which was not based on the Boards decision to use them as the firm for the deputy recruitment. Mr. Avery was selected based on prior work that he has completed for the City under Les' administration as the City Manager. Part of the focusing is to delineate up front what the things are that they are looking for and what is important to them in this search process. Then sticking to a very strong schedule; executive search really needs to stick to a schedule, your interaction in that labor market for people who are qualified for the position you are looking for has a very limited period of opportunity. We will stick to our timeline; we have found that executive searches that let their timeline slide don't fair as well because you start to lose that candidate pool. We will also be holding Mr. Avery accountable to a very detailed strategy on how he is going to attract candidates that are worthy of this position.

Member Brill stated that using sports as an analogy, if he was a coach or manager he would certainly want to be the person that would select or have a say in choosing the person that would be reporting directly to him. How does that dynamic work? In the list of questions Human Resources has provided there are none that address the candidates' interaction with the Board, pros and cons, what was the worst or best in dealing with a Board, and how did you overcome those obstacles. That is what concerns him; with Proposition 162 the Board should at least have an equal footing, if not more under the Pension Protection Act. He takes this responsibility seriously and the coach or manager is a great part of that.

Mr. Denaye said that is the reason they are here today because there are two documents that guide the recruitment process that they have not started yet. One is the position profile, so they are here to get the Board's feedback on what the City should be considering so that it gets into the profile, we lock it down and that is what will guide Mr. Avery's search. The second is the process that is provided for by the City Council, which has been provided to the Board for feedback. The City Manager is appointing a Director for the Department, once he makes a selection he needs to bring it to the City Council for their concurrence, during that process there is a part called Council Questions which provide a policy statement for the department, the policy statement that has been adopted by this Board and the Federated Board, as well as City Council on an annual basis. Then there is a list of questions, and in those questions the final candidate is expected to provide a written response to them which is presented to City Council in closed session for their approval of that candidate. So, we need feedback for that document.

Member Brill stated that this director position in the City of San Jose is very much different from any other in his reporting role. The director reports to the City Manager, but we also believe that he should be reporting directly to the Boards; there is no director that he is aware of who reports similarly. There is a unique dynamic that we are trying to be cordial about yet there is frustration because we are not getting from the City Manager's office.

Member Lisenbee said that there is no other department in the City with this type of dynamic situation and the Board believes that they are equally, if not more of in terms of a good choice for recruiting this position. Could you elaborate on how in terms of how you intend to involve the Boards in this process with regards to this unique set up?

Mr. Danaj stated that he has met with the Chairs of both Boards and that the recruiting has not begun yet, we are here seeking the Boards input today. There is no public profile or publishing done yet that is why we are meeting with the boards. Once they have a set of candidates they go through a series of panel interviews, it is Les' intentions to include members of this Board in that panel process, asking questions, and debriefing with the City Manager afterwards providing very clear and straightforward feedback on what you think of the candidates. There is a process where the search firm will present the candidates that they think should be proceeding based on the profile, then the City Manager will go through those and will select all of them or some of them for moving forward. This is typically the process used because this is a report to City manager position thus by Charter this is the decision he is directly responsible for making and sending to City Council for their concurrence.

Member Heredia stated that it seems that the City Manager is making the decisions and the Board has no decision-making involvement. How is that process harmonized with the Pension Protection Act? Mrs. Devencenzi said that the Pension Protection Act gives the Board the authority to administer the system but it doesn't mean that you change the Civil Service Rules that apply to a particular entity. Civil Service Rules or whatever the personnel process is in San Jose the Charter says that the City Manager appoints all of the employees' of the City, other than those that are appointed under the Charter by other people, such as the City attorney, the City auditor. Then there is another Charter in the provision that says in the process for

selecting a department head the Council has to adopt a policy for the department and as she understands the policy attached to the memo Human Resources provided says essentially that the Policy for the Retirement Boards describes and omission, if that is wrong then we should revisit that. The Policy statement is supposed to set the broad goals and then when the process goes forward and there is a vacancy the Charter requires the Council to adopt a set of questions which are intended to elicit responses from each respective appointee concerning the goals, objectives, and aspirations in the statement of policy. When the City Manager then conducts the selection process or gets to the point where the City Manger is ready to appoint someone into the department head position the City Manager is required to submit through Council the responses to Council questions that the proposed appointee has answered and the City Manger is required to seek the Councils advise and consent with respect to the appointment. That way the appointment can only be made if the majority of Council vote advises the City Manager concurs. The only case law to look at with respect to personnel appointments and the interaction between, if you look at the Wesley Case, PERS tried to bypass the personnel process the courts said no, you have to go with the process that goes in with the appointment. This has not been tested with respect to a chartered City that she is aware of but when you look at it and put them together our process is dictated by Charter. The Act says that the Board has the authority to administer the system and the assets of the system; it does not say that the Board can change the appointment process that is part of the entity that the Board is working with.

Mr. Richeda discussed his interpretation of the Charter, provisions, and case law and how that could be argued and he disagreed with *Mrs. Devencenzi's* interpretation.

Member Heredia said that he is responding to the challenge that has been put in front of them and that this Board is not going to be involved in the process except for the minute ability to say they were on a hiring panel, which is not enough. If they are paying the salary they should hire and direct that person to respond to us. He is not trying to stand in front of the process of moving forward but he feels very strongly about this.

Chair Skeen requested that any questions that the Board would like to provide to Human Resources for review or incorporation to please do so immediately to himself and he will forward those to HR.

There was further discussion between **the Board** and *Mr. Avery* regarding the firms' response on the deputy recruitment and how the overall recruiting process will proceed.

Member Chavez recommended using this opportunity to explore the role the Board plays in this recruitment, also this is an opportunity for the Board to provide feedback to Human Resources, to recommend an increase in pay, to request involvement in the paper screening process, and the hiring panels and verify that these things occur.

(M.S.C. Brill/Chavez) to approve recommendation to proceed with the following caveats: that both Board Chairs and Vice Chairs of the Police & Fire and Federated Boards would meet with the City Manager to discuss the failures and past challenges of Avery and what can be done to improve that, that the process be outlined between those three to come back to the two Boards for approval, then to have that process include the roles that the two Boards would play throughout the entire hiring process including any conflict resolution between the City Manager and/or the Boards, include a discussion of the possibility to increase the pay, and the timelines with expectations of Avery outlined. Motion carried 6-0-1. (Cortese)

Review of Board's travel policy and request to change policy's per diem amount from \$55.00 per day to the City's variable United States General Services

Administration CONUS rates.

The Secretary stated that basically the per diem is set at \$55.00, the per diem on the CONUS is variable, sometimes you would get less, and sometimes you would get more depending on the rate. In addition, the requirement would be that you take only 75% on the day of travel inbound and outbound, the rates are pretty close.

Chair Skeen stated that there are some IRS rules that may make this tax free or tax deductible he believes.

Mrs. Devencenzi stated that IRS has issued a revenue ruling recently that if an employer routinely pays a per diem allowance that is in excess of the Federal per diem rates, which are the CONUS rates, and they don't track the allowances or require the employees' to substantiate the expenses or pay back the amount in excess and they are not included in income and wages, then the entire amount is of the expense allowance is taxable income to the employee. Right now when we submit an expense report and you get a reimbursement for expenses, which generally comes on your paycheck, you are not taxed on that it is not considered taxable income, but what the IRS is saying is that if there is an excess over the CONUS amount and you don't have the employee submit the reimbursement receipts then you end up with a taxable situation. We generally say take the \$55.00 per diem and you don't have to submit the receipts but if it's over the CONUS rate then you could end up with the entire \$55.00 being taxable, so it does make sense to follow the recommendation.

The Secretary recommended that the Board adopt the CONUS rates but not the City's travel policy.

(M.S.C. Heredia/Brill) to approve adopting the CONUS rates. Motion carried 6-0-1.

Election of Retirement Board Chair/Vice Chair for the Year 2007.

The Secretary stated that this is the election of Chair and Vice-Chair and the Chair requested the Secretary to conduct this nomination. Therefore nominations are open.

(M.S.C. Brill/Heredia) to nominate Mark Skeen as Board Chair. Motion carried 5-0-1-1.

(M.S.C. Brill/Skeen) to nominate Ken Heredia as Board Vice-Chair. Motion carried 5-0-1-1!

Approval of budget increase for 2006-2007 to add a provisional analyst to perform review and recalculations of employees who have taken military leave of absences.

The Secretary stated that there is a problem with the reconciliation of pay and hours of service for employees' on military service for more than 30 days. We have some dated service pay that needs to be brought up to date as quickly as possible, City Council has expressed a keen interest in having this done in a timely fashion, so we have looked at it and our conclusion is if we add a provisional analyst we can get this done in about three months.

(M.S.C. Brill/Heredia) to approve. Motion carried 6-0-1.

OLD BUSINESS / CONTINUED ITEMS

Segal's response to questions posed in Firefighter Labor Organization's letter dated October 27, 2006 letter.

Mr. Lowman commented that regarding the splitting of assets, the last two parts the SRBR/Medical plan can remain as is. In attachment A, he is in agreement with but wanted to comment on the actuarial liability for actives and retirees and they would get split into one of those pots. Also, then once have the two pots can determine two unfunded liabilities based on an asset split based on two normal costs. But normal cost will be what the normal costs are based on the demographics of separate active employee groups for Police versus Fire and they will be different between Police versus Fire, which are both fine, which means that the employees' contributions rates will be different between Police versus Fire even if the Plans didn't change. The unfunded liability and the asset transfer will be done so that, notwithstanding the Plan change that occur for the Police, that the amortization payments as a percent of payroll will be fixed at the same amount for Police and Fire that will drive the asset transfer, which is fine. He understands that this split happens back to 7/1/05 because you do a valuation every two years, which is also fine. Last point, which he has provided a handout to correspond to, is that sometime in the past they received data on the rates of retirement and disabilities for Police versus Fire, but basically there are four boxes of numbers. One is the Fire disabilities by age and counts, then Fire service retirements age and counts, Police disabilities by age and counts, and Police service retirements age and counts. This period of time was five valuations ending with 2003 valuation, which is not the most recent data but this goes back over 10 years of retirements. This is just to exemplify what the reality of the situation is, which should be no surprise to anyone; the Fire guys work longer than the Police guys that's a reality. An interesting reality, but misleading at times is the fact that there are more disabilities for Fire than Police; misleading because while that is true Fire retirees are generally becoming disabled as they are already over age 50 and eligible for service retirements. The Police are more likely to be disabled before age 50 when they are not eligible for service retirement. What we are asking is that next time the valuation is done that the experience study be done as well by Segal that since the plan is being split, experience is being split, so these two assumptions disability rates and service time rates reflect the experience of Police versus fire and they be more specific. The other thing he encourages be considered is the retirement rates and how they are set. He thinks it was a good move when Mercer made the assumption that these retirement rates which are solely based on age are zeroed out when people are eligible for retirement because people don't retire under the 50 and 20 rule with a reduction very few do but it is really a function of age and service. It is important he thinks that the Plan make the retirement assumption more accurate and to look at age and service, and experience for Police versus Fire. Not looking for any changes in total but wants the Fire Plan to use the Fire experience meaning Fire assumptions for Retirement and disabilities and the Police Plan to be based on police assumptions and police experience for disabilities and service retirements. He would like them to be more exact based on age and service. These are the places where experience has shown big differences in assumptions.

Mr. Young stated that they have a client in Orange County who has groups separated for law enforcement and Fire and they routinely look at the experience for the two groups separately. He anticipated that once they divide up the assets and divide the members into two pots they would be looking into that and either come back to the Board with a suggestion for a different set of assumptions or we come back with justification of why a different set of assumptions would not be warranted at the time of the next study.

Member Heredia stated he has concerns with taking current retirees and separating them out into police and fire. He doesn't know that he would want that done.

Mr. Young stated that the reason to do that is because at the current moment it may not be critical because for each dollar of liability we have about a dollar of assets to back up the liability, but let's say that at the time of the next experience study we found out that your retirees are living longer so that means more money needs to be set aside to pay for those retirement benefit. The only way we can get money to pay for those retirees additional life expectancy to collect more money would be to go back to the City and say we need to charge an

additional cost as a percentage of payroll, so in order for us to do that we have to associate that additional liability to a payroll base. Either we would charge everybody like the Fire and Police alike or we would have to charge either the Fire or Police depending on which retiree we are talking about.

Member Heredia said that if a person retired under a plan that had all the assets together then how can you change that now, that person is not in a different plan, so this other tier now that the Police have negotiated is different than what we have currently. He also expressed confusion with the SRBR because if you split the assets then you start taking the amount to be distributed and there's a different base for Fire and Police, so the denominator to that equation is going to be somewhat different, which can be more or less for me as a firefighter or police officer.

Mr. Young addressed the issue of splitting the assets first, so we are going to be taking the assets and effectively splitting it into three parts; a part for the health money, so that we will leave alone or divide between the police and the fire, we are going to have the SRBR part, so now we have this pot of money for funding pension benefits, so what we are proposing to do as part of attachment A is to divide up the assets so that there will be a pool of assets that will be allocated to pay benefits just for current police members or for anyone who has retired from the police department in the past. Likewise, we are going to come up with the assets that will be used to provide the benefits for the current firefighters and anyone that has retired from the firefighter group in the past. Now we are not going to be dividing up the assets for the retirement purposes any way into three pots, so in other words we are not going to say that because you are a firefighter retiring under the new formula you have one pot and anyone that has retired since 7/1/06 will be in another pot, we are not contemplating doing that.

Mr. Lowman stated that keeping it simple is best. The split generally is just the normal cost 3/8ths and 11/8ths and the normal cost is just for the actives, so the current retirees be they put into pools with actives or into a separate pool members don't care to the extent that you create three pools instead of two pools the City is going to get three bills to aggregate, one for the active police pool with future retirees, one for the active fire pool with future retirees, and one for the old retirees at the end of the day it adds up to the same numbers.

Member Heredia then said that brings up the question of we are in the process of having Segal place a value on some benefit enhancements, one of which is continuation of survivorship allowance for spouses after retirement, so by splitting the system and splitting the retirees into those pots do you not come up with a cost for fire members and retirees and police members and retirees, so two costs instead of one?

Mr. Lowman said that the totals are the same. Unfortunately, when you move to the path of separate experience the truth may be that the assumptions are different and it will come out now. If something happens to cost more for police versus fire that's the path that was chosen. First of all current retirees, if a benefit improvement occurs, you are talking about a change in unfunded liability not a change in normal cost, the employees will not be apart of this, so it won't matter because the City picks up the cost. This is not something that is a bargaining issue as it doesn't affect the employee contribution rate just the cost and now you are going to see that things do cost differently. He is hoping that the SRBR and Medical will not be split, as he doesn't believe it is necessary to do but he assumes that everything is invested the same way and everything will get the same investment return.

Mr. Webster stated that there is a part of the SRBR that is a bonus and we take a look at the average benefit and whoever is less than 2/3rds of the average will get a benefit. What you will have then is a police average retirement benefit is going to be more than firefighters.

Member Heredia is also concerned the if you have earnings on the plan, of say 10%, so that's 2.8 million in

the plan and if you have split the assets does that mean there's 1.2 million available for firefighters SRBR and 1.6 million available for police because the SRBR is based on the asset base. The overall cost to the City will be the same it is just going to be apportioned differently. How does the SRBR's 19.1 million asset get split up?

The Secretary said that it would but it is based on whatever the firefighter's assets are and whatever police assets are then the 10% would be applied to that.

Member Heredia continued that he believes that creates a problem with the SRBR because if you take all of the assets and put them in a pot, add all the years of service, add all the years of retirement, add all our years of over 20, and give a point for all that then that becomes the denominator and his individual points becomes the numerator and multiply that by the total earnings. If you split us into cops and firefighters you have two denominators and two numerators and two numbers to multiply those by, and that's not what was negotiated.

Mr. Young said that with Segal's proposal they are splitting the retirement assets; the Board needs to look into whether they want to split the medical trust and SRBR as well. To the extent that we find out if one group is retiring earlier than the other there might be an argument down the road. Segal would recommend that if we are splitting the retirement assets to go ahead and split the medical assets as well. They did not review the SRBR that would remain the same. The one thing they have avoided is why you would not recommend splitting the assets for the health plan when you are splitting the assets for the retirement plan, if they come back five years from now asking why this was not done it will be very difficult for them to undo the whole transaction, so therefore they feel that input should be sought regarding this matter because from an actuarial standpoint it doesn't really matter in terms of how much contribution they would get from the two plans. There could be an equity issue of how much the firefighters contribute versus how much police contribute if they have done it one way and not the other.

Member Heredia stated that he would need to know the implications of splitting the medical, dental, and SRBR because there are other benefits out there that are one time benefits to individual people. He doesn't understand why PERS, a plan that pays different benefits to the police versus firefighters, they don't split their assets, so why are we.

Mr. Platten replied that we bargain differently due to the design of our plan as opposed to CALPRS where they have pooled assets. With those assets then separately cost out, so normal cost may differ in a PERS plan if the police have first negotiated a 3% accrual at 50 and then two years later the firefighters negotiate that accrual that normal cost is going to be a different cost even though the assets are pooled. For us now to know what we are bargaining over, the costs of the retirement benefits we have to have an asset allocation first, then we have to make sure that we are not bleeding assets from one side to the other through some form of hidden subsidy. All they are asking today is that they agree with the proposed split provided by Segal with regards to the retirement assets.

Mrs. Devencenzi asked if down the road medical benefits were negotiated to be different could we split those down the road or would that need to be done now because if it could be done later that is probably better.

Mr. Young stated that the next step would be to divide up the assets for retirement and health because those two would be relatively easy for them to do at this point, the SRBR is very different so we would not do that, but to do a simulation for the Board to see how the plan would look with the splits.

Mr. Platteny stated that as a result of the letter from Segal, yesterday the Bargaining parties and interest arbitration have gotten closer to pension benefit enhancements regarding the firefighters and are requesting that the Board instruct Segal to actuarial value three benefit enhancement options, which would be discussed

by Mr. Lowman on behalf of Local 230 and Mr. Bartell the City Actuary to work with Segal to perform valuation.

Chair Skeen stated that if they are going to do a special meeting on Wednesday, since the Committee will be meeting, then the actuaries can talk to each other and a letter will be provided to The Secretary for authorization.

Approval of contribution rate increase for Police Personnel Plan members for the 2005 benefit improvement including amount determined in Segal's letter to be the impact of delay in rate increase.

The Secretary stated that the report has been provided and this comes from Segal's recommendation and the reconciliation with the Mercer numbers.

(M.S.C. Brill/Muncy) to approve. Motion carried 6-0-1.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS

Investment Committee (Skeen/Heredia/Muncy)

- a. Summary of meeting held 15 November 2006.

(M.S.C. Brill/Muncy) to approve. Motion carried 6-0-1.

Real Estate Committee (Skeen/Heredia/Muncy – Alt: Vacant) – next meeting 12/13/2006

Investment Committee of the Whole (Full Board)

- a. Summary of meeting held 15 November 2006.

(M.S.C. Brill/Muncy) to approve. Motion carried 6-0-1.

APPROVAL OF MINUTES

Monthly board meeting held 2 November 2006.

(M.S.C. Heredia/Muncy) to approve. Motion carried 6-0-1.

PENDING ACTIONS LIST

Updated list as of 28 November 2006.

This item is note and file.

BENEFITS REVIEW

Summary of meeting held October 2006

This item is note and file.

CONSENT CALENDAR

(M.S.C. Brill/Heredia) to approve. Motion carried 6-0-1.

PROPOSED AGENDA ITEMS

PUBLIC COMMENTS

EDUCATION & TRAINING

CEREMONIAL PRESENTATION

Presentation of commendation to Cindy Chavez.

ADJOURNMENT

There being no further business, at 11:47 a.m., **The Chair** stated the meeting would be adjourned.

MARK J. SKEEN, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

EDWARD F. OVERTON, SECRETARY
BOARD OF ADMINISTRATION