

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**May 6, 2010**

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:37 a.m., on Thursday, May 6, 2010, in regular session at City Hall, Council Chambers, 200 East Santa Clara Street, San Jose, CA, 95113.

### ROLL CALL

#### PRESENT:

- DAVID BACIGALUPI -Chair
- CONRAD TAYLOR -Vice Chair
- ROSE HERRERA -Trustee – Arrived 8:53 A.M.
- KEITH KEESLING -Trustee
- SCOTT JOHNSON -Trustee

#### ABSENT:

- SAM LICCARDO -Trustee

#### ALSO PRESENT:

- |                  |                         |                  |                     |
|------------------|-------------------------|------------------|---------------------|
| Russell Crosby   | -SECRETARY              | Donna Busse      | -Staff              |
| Mollie Dent      | -City Attorney's Office | Toni Johnson     | -Staff              |
| Lisa VonTress    | -Staff                  | Carol Bermillo   | -Staff              |
| Amanda Ramos     | -Staff                  | Mike Moehle      | -Staff              |
| Sam Swift        | -Attorney               | Ron Kumar        | -Staff              |
| Sharon Erickson  | -City Auditor           | Veronica Niebla  | -Staff              |
| Karin Carmichael | -Staff                  | Maria Loera      | -Staff              |
| Allision Suggs   | -OER                    | Linda Charfauros | -Fire Department    |
| Antonio Guerra   | - Mayor's Office        | Jesselle Holcomb | -Staff              |
| Rhonda Snyder    | -Staff                  | Russ Richeda     | -Conflicts Attorney |
| Jay Wendling     | -SJPOA                  | Ceara O'Fallon   | -Staff              |
| Sean Kaldor      | - Board Candidate       |                  |                     |

## REGULAR SESSION

### ORDERS OF THE DAY

Item 1D - **Keith K. Keesling**, Battalion Chief, Fire Department, change retirement date from May 15, 2010 to June 30, 2010.

Item 18 – Removed from agenda.

Item 23 A and B to be moved up to follow Item 4.

Trustee Johnson asked that Items 13 and 14 be heard together.

### RETIREMENTS

#### 1. Service

- a. **Bertha L. Cooke**, Police Officer, Police Department, effective May 15, 2010; 25.90 years of service. (M.S.C. Taylor/Keesling) Motion to approve. Motion carried 4-0-2 (Liccardo/Herrera-absent).
- b. **Camille Giuliodibari**, Police Officer, Police Department, effective May 15, 2010; 25.10 years of service (Reciprocity). (M.S.C. Taylor/Keesling) Motion to approve. Motion carried 4-0-2 (Liccardo/Herrera-absent).
- c. **Charles T. Gould**, Police Officer, Police Department, effective May 29, 2010; 25.13 years of service.

- (M.S.C. Taylor/Keesling) Motion approved. Motion carried 4-0-2 (Liccardo/Herrera-absent).
- d. **Keith K. Keesling**, Battalion Chief, Fire Department, effective May 15, 2010; 24.45 years of service (Early Retirement).  
(M.S.C. Taylor, Bacigalupi) Motion approved. Motion carried 3-0-3 (Liccardo/Herrera-absent, Keesling-abstained).
- e. **Ralph Ortega**, Captain, Fire Department, effective May 16, 2010; 28.99 years of service.  
(M.S.C. Keesling/Taylor) Motion approved. Motion carried 4-0-2 (Liccardo/Herrera-absent).
- f. **Steven E. Pryor**, Police Officer, Police Department, effective May 1, 2010; 25.60 years of service.  
(M.S.C. Taylor/Keesling) Motion approved. Motion carried 3-0-2 (Liccardo/Herrera-absent).

2. **DISABILITIES - NONE**

3. **CHANGE IN STATUS**

- a. **José G. Avila**, Retired Fire Engineer, Fire Department. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 28.82 years of service. Retired Fire Engineer Avila was present and represented by Mr. Swift. The following medical reports were received:

MEDICAL REPORTS – DR.’S NAME	DATED
1. PATRICK MCCREESH, M.D.	11/06/09 (TWO REPORTS), 10/24/09 (SIX REPORTS), 10/12/09 (TWO REPORTS), 10/06/09 (TWO REPORTS), 10/30/08, 10/13/08, 05/22/08
2. BRENDAN MORLEY, M.D.	11/04/08
3. FULTON CHEN, M.D.	01/14/08, 09/06/07, 05/14/07, 12/21/06, (TWO REPORTS), 07/17/06, 09/27/05 (TWO REPORTS), 02/08/05, 11/16/04, 09/01/04
4. BRUCE NIXON, M.D.	02/23/05
5. PETER SALAMON, M.D.	11/09/01 (TWO REPORTS), 08/16/01, 07/02/01, 10/04/00, 08/16/00 (TWO REPORTS)
6. W. AUBREY FEDERAL, M.D.	07/25/01, 03/12/01 (TWO REPORTS)
7. KAMLA LUMVBORG, M.D.	11/23/98
8. DONALD SIAO, M.D.	05/05/95
9. JORGE CONTRERAS, M.D.	02/08/91

MEDICAL REPORT FROM BOARD’S DIRECTOR	DATED
RAJIV DAS, M.D.	04/15/10

- (M.S.C. Keesling/Bacigalupi) Motion to approve. Motion carried 3-1-2 (Liccardo/Herrera-absent, Taylor-no).

- b. **Jeffrey L. Clet**, Retired Battalion Chief, Fire Department. Request for change in status to Service-Connected Disability Retirement effective June 27, 2009; 26.05 years of service. Retired Battalion Chief Clet was present and represented by Mr. Swift. The following medical reports were received:

MEDICAL REPORTS – DR.’S NAME	DATED
JEFFREY ANDERSON, M.D.	10/14/09, 10/6/09 (2), 5/21/09, 11/6/08, 7/25/06, 12/19/05, 7/31/03
PATRICK MCCREESH, M.D.	9/5/09 (4), 8/24/09 (2), 5/18/09, 4/9/09, 1/15/09, 11/02/08, 7/23/08, 5/28/08, 5/19/08, 10/4/02, 11/11/02
ALPHONSUS CHEUNG, M.D.	5/4/09, 9/29/08
AL CHEUNG, M.D.	10/6/08, 9/2/08
KENNETH BLUMENFELD, M.D.	8/14/08
LAWRENCE CHAN, M.D.	6/9/08
MARK GOLDBERG, M.D.	10/31/02
MARTIN TRIEB, M.D.	8/27/02

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	4/15/10

(Trustee Herrera arrives at 8:53 A.M).

(M.S.C. Keesling/Taylor) Motion carried 4-0-2 (Liccardo-absent, Herrera-abstained).

- c. **Steve F. Goytia**, Retired Fire Engineer, Fire Department. Request for change in status to Service-Connected Disability Retirement effective December 27, 2008; 31.38 years of service. Retired Fire Engineer Goytia was present and represented by Mr. Swift. The following medical reports were received:

MEDICAL REPORTS – DR'S NAME	DATED
1. PATRICK MCCREESH, M.D.	12/8/09 (X4), 3/25/09 (X2), 11/13/06
2. JOHN COLMAN, M.D.	8/25/09 (X2), 5/21/09, 4/17/09, 3/23/09, 2/11/93
3. MARK CULTON, M. D.	7/18/09, 1/27/09, 1/20/09, 7/7/01 (X2)
4. MURRAY SOLOMAN, M.D.	1/22/09
5. CASEY TERRIBILINI, D.C.	1/27/09
6. VINEENT SHARMA, M.D.	12/2/08 (X2)
7. TRAVIS HEINING, M.D.	12/2/08
8. MARK EASTLAND, M.D.	10/10/03
9. KAI TILTMANN, D.C.	9/6/02
10. GEORGE THABIT, III, M.D.	4/15/02
11. NICHOLE BARRY, M.D.	11/26/01
12. BRUCE HYMAN, M.D	7/18/94
13. THOMAS ROBERTS, M.D.	5/29/91, 4/1/91, 8/16/88
14. ANDREW DURKIN, M.D.	3/31/91
15. DEBORAH TILLOU, D.C.	3/31/91
16. ARTHUR HOLMBOE, M.D.	10/26/88
17. CHARLES BORGIA, M.D.	5/4/88, 1/5/88, 12/17/87
18. JOHN WALL, M.D.	12/9/87, 6/19/80
19. J. ISHERWOOD, M.D.	12/27/78

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	3/1/10

(M.S.C. Keesling/Taylor) Motion to approve. Motion carried 5-0-1 (Liccardo-absent).

- d. **José Loquiao**, Retired Firefighter, Fire Department. Request for change in status to Service-Connected Disability Retirement effective October 4, 2008; 31.80 years of service. Retired Firefighter Loquiao was not present and was represented by Mr. Swift. The following medical reports were received:

MEDICAL REPORTS – DR'S NAME	DATED
ANNU NAVANI, M.D.	2/19/2010 : 6/9/08 : 3/11/08 : 2/23/07 : 9/15/06 : 6/8/06 : 9/1/05
ALLEN KAISLER-MEZA	11/1/09 (TEN REPORTS) : 11/5/07 (TWO REPORTS) : 11/14/05 (TWO REPORTS) : 11/26/02 (TWO REPORTS)
JOHN BRANSCUM, M.D	8/27/08
EDWARD DAMORE, M.D.	6/17/08
RENEE WALL, P.A.	11/26/07
EMEKA NCHEKWUBE	10/25/07
MARK CULTON, M.D.	4/26/06 : 11/12/03 : 12/17/02
MATTTHEW TRAN	4/26/06
THERESA COLOSI, M.D.	4/11/06
CONOR O'NEILL, M.D.	4/6/04 : 1/20/04
JEFFREY COE, M.D.	12/26/03 : 2/24/03 : 10/1/99 : 2/10/98 : 10/13/97
JOHN COLMAN, M.D.	3/10/03 : 11/13/00 : 5/3/00 : 4/25/00 : 4/10/00 :
JAMES VAUDAGNA, M.D.	12/9/97 : 12/3/97
MURRAY SOLOMON, M.D.	11/13/97
NATHAN MILLER, M.D.	6/10/97

JAMES SAADI, M.D.	3/27/97 : 2/4/97 : 11/26/96
JOHN RENNICK, M.D.	12/18/96 (TWO REPORTS)
RAUL GUIASADO	7/30/96
MARSHAL ROSARIO, M.D.	10/27/95 : 9/26/95 : 5/5/95
ANN THRUSH	7/18/95
PETER MOSKOWITZ, M.D.	4/13/95
JEFFREY SAAL, M.D.	2/24/95
JEROME CHESTER, M.D.	1/12/95
JOHN STAHLER, M.D.	10/19/94
ROBERT LA ROQUE, M.D.	9/22/94
DAVID KNEAPLER, M.D.	6/21/91
STANLEY HARMON, M.D.	6/15/87
CARTER MULTZ, M.D.	11/1/83 : 8/8/83
GORDON LEVIN, M.D.	9/9/83 : 9/1/83
DENNIS BECKERM, M.D.	8/15/83

MEDICAL REPORT FROM BOARD'S DIRECTOR	DATED
RAJIV DAS, M.D.	4/15/2010

(M.S.C. Keesling/Taylor) Motion to approve. Motion carried 5-0-1 (Liccardo-absent).

**4. DEFERED VESTED - NONE**

**DEATH NOTIFICATIONS - Moment of Silence**

*The below items are Note & File.*

5. Notification of the death of Buck B. Ballard, Retired Police Sergeant; retired 2/17/79, died 3/29/10. No survivorship benefits.
6. Notification of the death of El-Hajj Malik, Retired Fire Prevention Inspector; retired 4/1/04 died 3/5/10. Survivorship benefits to Andrea Malik, spouse.
7. Notification of the death of George J. Silveria, Retired Firefighter; retired 11/7/96, died 4/8/10. Survivorship benefits to Mary Jo Silveria, spouse.

**NEW BUSINESS**

**8. Acceptance of Segal's draft report on Actuarial Valuation of Retirement Health Benefits as of 30 June 2009 (GASB 43/45) and authorization to forward on to City Administration.**

*Mr. Yeung* presented the draft report prepared pursuant to the two new accounting standards, GAB 43 and 45. He stated that the report presents the results of Segal's actuarial valuation of City of San Jose's OPEB plan as of June 30, 2009. The results are in accordance with the Governmental Accounting Standards, which prescribe an accrual methodology for accumulating the value of other postemployment benefits (OPEB) over participants' active working lifetimes. The report is intended for GASB expense and disclosure purposes. The setting of funding contribution rates is addressed in a separate report. The annual required contribution (ARC) for the 2010 fiscal year is \$48.8 million, or 19.1% of projected pay, which is reduced from 20.5% of payroll determined in the June 30, 2007 valuation for the 2007-2008 and 2008-2009 fiscal years. The 2009-2010 ARC is the City's net ARC after reducing the total ARC for the expected employee contributions for the 2009-2010 fiscal year. The amount required to amortize the Unfunded Actuarial Accrued Liability used to develop the ARC has been calculated using the 30-year open amortization period adopted by the Board. This is different from the 30-year closed amortization period adopted by the Board for determining the five-year phase-in funding contribution rates for Police members. *Mr. Yeung* stated that the expense that Segal is recommending for the fiscal year 2009-2010 is 19.13%, which is a change in the expense of about 1.3-1.4%.

Discussion was held regarding the report and the Board directed Staff to work with Finance staff on Net OPEB Obligation.

(M.S.C. Johnson/Taylor) Motion to accept report. Motion carried 5-0-1 (Liccardo-absent).

**9. Contribution rates for year 2010-2011.**

- a. Discussion and possible action on SRBR balance reduction and impact on the City contribution rates.
- b. Adoption of Resolution number 3667 setting new City and employee rates of contribution for Police members to be effective June 27, 2010.
- c. Adoption of Resolution number 3668 setting new City and employee rates of contribution for Fire members to be effective June 27, 2010.

*Ms. Dent* stated that in April 2010 a discussion was held by the board regarding the reduction in City's contribution rate by 0.45% and whether that was consistent with the Municipal Code's SRBR provisions. A one-time offset is consistent with the Municipal Code, as an adjustment to offset amount due to investment losses, to offset the City contribution.

(M.S.C. Taylor/Bacigalupi) Motion to adopt items 9a, 9b and 9c. Motion carried 5-0-1 (Liccardo-absent).

**10. Request for action on City Manager's memo requesting Plan's Actuary calculate a discounted contribution amount for the City's lump sum contributions for Fiscal Year 2010-2011.**

*Trustee Johnson* stated that this request was similar to the 2008-09 request. The Payroll department works closely with Retirement staff on reconciliation of each pay period. The Finance Department has reviewed the budget and noted to the Public Safety, Finance and Strategic Support Committee that the City's cash balances in the general fund has been decreasing due to the structural imbalance and decline in revenues and drawing down the Reserves. The Finance Department has issued an RFP for short-term borrowing and selected JP Morgan. *Chair Bacigalupi* stated that the Board is being asked to direct the Actuary to provide information to the City, not whether or not they should use it. This is the first step in the process to calculate the cost.

(M.S.C. Johnson/Herrera) Motion to accept the memo with the provision that the City would pay 50% of the cost of the analysis by the Actuary. Motion carried 5-0-1 (Liccardo-absent).

**11. Discussion of Disability Process Training for Trustees.**

*Chair Bacigalupi* stated that the Board would like a training session to discuss the topics of interest. He will work with staff to get a date scheduled.

**12. Action on Police & Fire Retirement Board member nomination petitions for Fire Representative and authorization for staff to forward Board's recommendation on to Clerk's Office .**

*Chair Bacigalupi* stated that Board members have the memo in the packet discussing the candidate, Sean Kaldor.

(M.S.C Taylor/Keesling) Motion to forward recommendation to Council. Motion carried 5-0-1 (Liccardo-absent).

**OLD BUSINESS/CONTINUED-DEFERRED ITEMS**

13. Approval for the Secretary to negotiate and execute an agreement with Brown Armstrong Accountancy Corporation ("BAC") to provide Annual Financial Audit and Compliance Audit Services to the Police & Fire Department Retirement Plan for fiscal years ending June 30, 2010, 2011 and 2012, and two one-year extension options for fiscal years ended June 30, 2013 and 2014 at a fixed rate of \$43,000 for the first three years, with annual increases for the final two years adjusted annually by the CPI for years four and five with a not to exceed amount of \$221,557.

*See item number 14 below.*

14. **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. Niebla* stated that the contract with Macias Gini O'Connell LLP expires in May and staff conducted an RFP for external audit services and is recommending Brown Armstrong Accountancy Corporation as they are experienced in the public plan space, are committing two partners to the Police & Fire Plan's audit and are independent of the plan sponsor, which is an industry best practice. She introduced Mr. Andy Paulden from Brown Armstrong.

*Member Johnson* asked Mr. Paulden questions regarding industry best practices and independence to which *Mr. Paulden* responded that the profession deals with independence in fact and independence in appearance. And independence in fact is very easy to ascertain pursuant to the rules and regulations of the profession. *Mr. Paulden* answered questions from other Trustees.

*Member Johnson* relayed his concerns regarding the RFP process followed by staff to which *Ms. Dent* stated that the procedure followed was not in violation of the City's requirements.

Discussion was held regarding Brown Armstrong and the RFP conducted by the City and by Retirement staff.

*Ms. Erickson* stated that to her knowledge, the only jurisdiction in the state that does not allow firms to bid on audit work for both the Plan sponsor and the trust fund is L.A. County. She commented on Retirement staffs' memo and stated that her responsibility is that an annual audit is conducted of all the entities of the City.

*Ms Erickson* recommended that Macias Gini O'Connell's (MGO) selection be approved. She stated that MGO is an experienced government audit firm. In addition to being San José's auditor and the Plan's auditor for the past of ten years MGO is the principal auditor for some of the largest cities and some of the largest public employee retirement systems in the state including CalPERS and CalSTRS as well as retirement systems in Oakland, Sacramento, Sacramento County, San Diego, and San Francisco. MGO has assigned a new engagement partner, Richard Green, to the retirement engagements. She stated that the intent of the consolidated RFP process was for all the City's entities to have improved timeliness, increased efficiency and better pricing.

*Chair Bacigalupi* acknowledged that no matter what this Board decides, *Ms. Erickson* is charged with and will perform the audit process for the council.

Further discussion was held regarding independence of the auditor, the City Auditor's authority to conduct the audit, and the Board's authority to hire its own auditor.

**(M.S.C. Herrera /Johnson) Motion to approve hiring Macias Gini & O'Connell LLP for one year, then issue an RFP and not to approve item #13 to hire Brown Armstrong Accountancy Corporation. Motion carried 5-0-1 (Liccardo-absent).**

15. **Update on FLSA Pensionable Earnings Issue.**

*Ms. Niebla* stated that Macias Gini O'Connell LLP is currently in the review and analysis process. Preliminary variances reported include preliminary findings that hours in PeopleSoft do not match to time sheets they have reviewed, and the pensionable pay in PeopleSoft does not match the pensionable salary in Pension Gold. The recalculated employee and employer contributions do not agree to

PeopleSoft's records. The actual contributions in PeopleSoft match the amounts in Pension Gold. These are preliminary variances and are being researched.

16. **Discussion and possible action on definition of Final Compensation for pension Calculation.**  
*Ms. Dent* asked to defer until next month due to the incomplete report in the Board Packet.
17. 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 Police and Fire Retirement Plan of \$35,000.00 total for legal services related to Plan tax qualification review.  
**(M.S.C. Keesling/Herrera) Motion carried 5-0-1 (Liccardo-absent).**
18. Discussion and possible action on early retirement calculations pursuant to SJMC 3.36.810. –**Dropped.**

#### **STANDING COMMITTEE REPORTS/RECOMMENDATIONS**

##### **Investment Committee(Bacigalupi/Johnson/Keesling/Alternate: Liccardo)**

19. Summary of February 18, 2010 meeting.  
*This item is Note & File.*
20. Approval of the modifications to the Police & Fire Department Retirement Plan's Statement of Investment Policy to update the policy targets and to clarify the manager requirements to notify the Board regarding cash positions.  
**(M.S.C. Johnson/Keesling) Motion carried 5-0-1 (Liccardo-absent).**

#### **INVESTMENT COMMITTEE OF THE WHOLE**

*The below item is Note & File.*

21. Summary Quarterly Investment Committee of the Whole, February 18, 2010 meeting.

#### **DUE DILIGENCE COMMITTEE (Bacigalupi/Taylor/Keesling)**

22. Summary of Due Diligence Committee March 30, 2010.
  - a. Approval of the Comprehensive Travel Policy as recommended by the Due Diligence Committee.  
*Ms. Niebla* explained that the Travel Policy reflected the City's travel policy.  
**(M.S.C. Keesling/Herrera) Motion to approve Comprehensive Travel Policy. Motion carried 5-0-1 (Liccardo-absent).**

#### **AD HOC DISABILITYFORMS COMMITTEE (Bacigalupi/Taylor/Keesling)**

23. Summary and Recommendations from March 29, 2010 meeting.
  - a. Discussion and Board approval of the following committee recommendations regarding Physicians' disability forms:
    - i. Maximum \$100.00 fee per two-part form, Statement of Medical Condition and Request for work Restrictions. Fees for two-part form only paid once per body part.
    - ii. Maximum \$500.00 fees paid per applicant.
    - iii. No reimbursement for prior paid fees.
  - b. Summary of April 15, 2010 meeting.  
**(M.S.C. Taylor/Keesling) Motion to approve. Motion carried 5-0-1 (Liccardo-absent).**

#### **CONSENT CALENDAR - Items 24 through 33**

24. **Approval of Minutes** monthly meeting held April 1, 2010.  
*Member Johnson* made an amendment to the minutes.

(M.S.C Johnson/Taylor) Motion to approve as amended. Motion carried 5-0-1 (Liccardo-absent).

25. Approval of Travel/Conference Attendance

- a. Barbara Hayman, Travel to Marina Del Rey, AC for CPAS user meeting, April 26-27, 2010.
- b. Ali Amiry, Travel to Strategic Investment Executive Forum Lansdowne, VA, May 16 – 18, 2010.
- c. Ali Amiry, Commodities Manager Due Diligence, New York, NY, May 19 -21, 2010.
- d. Charnel Benner, Travel to SACRS Conference, Newport Beach, CA May 11 – 14, 2010.

(M.S.C. Herrera/Taylor) Motion carried 5-0-1 (Liccardo-absent).

26. Approval of Monthly Expenses for March 2010.

(M.S.C. Johnson/Herrera) Motion carried 5-0-1 (Liccardo-absent).

27. Pending Action

(M.S.C. Herrera/Taylor) Motion carried 5-0-1 (Liccardo-absent).

28. Benefits Review Forum report for March 2010.

(M.S.C. Herrera/Taylor) Motion carried 5-0-1 (Liccardo-absent).

29. Return of Contributions

- a. Voluntary
- b. Involuntary – None

(M.S.C. Herrera/Taylor) Motion carried 5-0-1 (Liccardo-absent).

30. Investments

- a. Adoption of Resolution Number 3666 for the period February 1 – 28, 2010.

(M.S.C. Johnson/Taylor) Motion carried 5-0-1 (Liccardo-absent).

31. Communication/Information

- a. Report on Investments as of February 28, 2010.

Trustee Johnson asked staff if year to date returns could be shown in the investment report. He also asked if it is possible to show cash flow of Plan contributions.

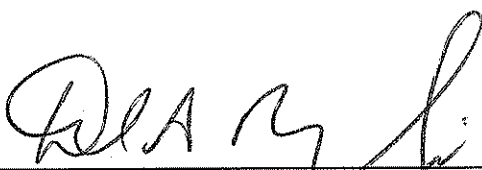
(M.S.C. Johnson/Taylor) - Motion carried 5-0-1 (Liccardo-absent).

Proposed Agenda Items

Public Comments - NONE

Education and Training

ADJOURNMENT



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DAVID BACIGALUPE, CHAIR  
BOARD OF ADMINISTRATION



ATTEST:



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RUSSELL U. CROSBY, SECRETARY  
BOARD OF ADMINISTRATION