

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**June 5, 2008**

### **CALL TO ORDER**

The Board of Administration of the Police and Fire Department Retirement Plan met at 2:25 p.m., on Thursday, June 5, 2008, in regular session at The Hayes Mansion Conference Center in the San Jose Room, 200 Edenvale Avenue, San Jose, CA.

### **ROLL CALL**

#### **Present:**

**MARK J. SKEEN**

**KEN HEREDIA**

**BRET MUNCY**

**BILL BRILL**

**FORREST WILLIAMS**

**SCOTT JOHNSON**

**CHAIR**

**VICE CHAIR**

**Trustee**

**Trustee**

**Trustee**

**Trustee**

### **NOT PRESENT:**

**DAVE CORTESE**

**Trustee (Excused)**

### **ALSO PRESENT:**

**Russell Crosby** -**SECRETARY**

**Richeda** -Saltzman & Johnson

**Tamasha Johnson** -Staff

**Rajiv Das** -Board Doctor

**Bruce DeMers** -PF Retirees

**Andy Yeung** -The Segal Company

**Randy Sekany** -L230

**Lt. Carr** -SJPD

**Mollie Dent** -City Attorney Office Russell

**Debbi Warkentin** -Staff

**Donna Busse** -Staff

**Roger Pickler** -Staff

**Veronica Niebla** -Staff

**Karin Carmichael** -Staff

**Aracely Rodriguez** -OER

**Linda Charfauros** -SJFD

## **REGULAR SESSION**

### **ORDERS OF THE DAY**

**Chair Skeen** called the meeting to order at 2:25 p.m. He stated that Item 2a, 3a, and 6 would be heard first. He announced the following changes: Item 1s and 1aa have service-connected disabilities pending. The effective retirement date for Item 1x is June 28, 2008, and for Item 1z the effective retirement date is July 27, 2008.

### **RETIREMENTS**

(Out of Order)

#### **2. Disabilities**

- a. *Jason Campbell*, Police Officer, Police Department. Request for Service-Connected Disability Retirement effective June 5, 2008; 12.91 years of service.

For the record, *Officer Campbell* was present and represented himself. The following medical reports have been received:

**Doctors Names:**

**Report Date:**

STEPHEN COLLINS, D.C.	1/31/08 (FIVE REPORTS): 12/10/07 : 7/19/07 : 4/9/07 : 6/18/06 : 7/23/02
EDWARD CREMATA, D.C.	6/9/07 : 4/11/07
A. SHANE DREHER, D.C.	5/11/07 (TWO REPORTS)
FRANK CHEN, M.D.	10/23/06 : 9/19/06 : 9/14/06 : 5/8/06 (TWO REPORTS)
MARILEE SCHUCHARD, M.D.	8/15/06 : 9/21/05 : 3/10/05 : 9/26/02 : 9/3/02
JOHN JAUREGUITO, M.D.	10/5/06 : 5/5/06
MIMI LIN, M.D.	9/27/05 : 8/4/02
JAN HENSTORF, M.D.	2/2/05 : 9/12/03
FULTON CHEN	1/14/05 : 1/11/05 : 12/14/04
M. CHRIS DOWLING, M.D.	1/4/05 (TWO REPORTS)
CYNTHIA CLARK, M.D.	11/4/04
LOURDES BOURDON, P.T.	4/20/04
RORY SATTERFIELD, M.D.	8//20/03
DEEPA ABRAHAM, PH.D.	2/12/03
DESMOND ERASMUS, M.D.	10/21/02 : 9/9/02 : 8/1/02 :
PAUL SANDHU, M.D.	8/23/02
JOY FOSTER, M.D.	7/30/02

**Medical director's report:**

**Report date:**

RAJIV DAS, M.D.	4/14/08
-----------------	---------

*Dr. Das* stated Officer Campbell's application is based on low-back pain, hyper-extension, hernia, and weakness in his legs. He stated the officer has had surgeries and still suffers residual symptoms. The restrictions are based on the functional capacity evaluation he underwent.

*Lt. Carr* stated none of the allotted Article 39 positions are available for Officer Campbell.

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

**3. Change in Status**

- a. *Todd F. Martin*, Retired Lieutenant. Request for change to Service-Connected Disability Retirement effective December 30, 2006; 31.49 years of service.

For the record, *retired Lt. Martin* was present and was represented by *Mr. Jeffers*. The following medical reports have been received:

**Doctors Names:**

**Report Date:**

HAMID M. MEHDIZADEH, M.D.	03/19/2008 (2 RPTS); 03/05/2008 (2 RPTS); 02/07/2008; 10/10/2007; 12/29/2006; 12/18/2006; 10/16/2006; 09/13/2006; 04/17/2006; 12/07/2005; 10/05/2005; 07/08/2005; 08/04/2004; 07/07/2004; 04/09/2001; 02/26/2001; 12/14/1999; 08/03/1998; 07/15/1997; 06/18/1997
ANDREW DURKIN, M.D.	12/28/2006
CHARLES GRIFFIN, M.D.	06/21/1997

**Medical director's report:**

**Report date:**

RAJIV DAS, M.D.	05/20/2008
-----------------	------------

*Dr. Das* stated the Lt. experienced low back pain in 2006, and the symptoms have become worse. He has undergone surgery and continues to have symptoms. The restrictions provided are based on his treating physician's recommendations.

*Mr. Jeffers* stated the Lt. retired in 1996 with 31.5 years of service. He reviewed Lt. Martin's career and the history of his injuries.

*Lt. Martin* described changes he underwent in his career and home life due to injuries he sustained. He stated he tried to continue in the workforce, even working a 2 hour am shift, then taking time off for 4 hours, and returning later in the day to complete 2 more hours in the pm. He did that until he just could not work any longer.

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

## **NEW BUSINESS**

6. Approval of draft ordinance providing City option for lump sum payment of employer-requirement contributions and establishment of amount for the August lump sum payment based on actuarial determination.

**Member Johnson** recused himself for this discussion. He referred to a revised letter showing the new amounts based on a pre-payment in August. There are also additional changes in the benefit contribution rates, which factored in the prepayment. He referenced the Segal Company's report for the amount.

*Mr. Yeung* from the Segal Company reported that the two changes for the benefit improvements for Fire were incorporated into the prepayment analysis. The study done for the fiscal year 2008-09 prepayment only shows 26 pay periods, so the Plan should expect to see two bi-weekly contributions in the first two pay periods. He stated the projected payroll for the 24 pay periods covered by the prepayment is \$218.6 million and the discounted prepayment amount for the pension contribution is \$47.5 million, and the amount for the retiree health contribution is \$8.8 million.

*Mr. Johnson* stated that payment of \$56.37 million in total for the pension and health plan will provide a benefit to the City of \$2.5 million. However, there will be a reduction due to foregone interest. The benefit to the Plan will be that it will receive the money up front and will be able to invest the money sooner for a higher rate of return rather than obtaining it pay period by pay period. The Ordinance provides flexibility for the future years. They plan to establish a process where the City requests the prepayment and notifies the Board of its request prior to the actual payment.

**Vice-Chair Heredia** stated the process seemed overly complicated. Also, for the election date of April 30<sup>th</sup> seems that there would not be enough time to get actuarial studies completed and brought back to the board, and then that becomes costly to do repeatedly.

*Mr. Richeda* stated this set up is better, so the City pays a larger amount in advance and the benefits are still in the Plan.

*Ms. Dent* stated the Ordinance is worded for an annual payment option on or before April 30<sup>th</sup> for the City to elect what period to make the payment in. Once it is selected then the Board could have the study done. The issue of costs is not discussed in the Ordinance.

*Mr. Yeung* stated the process took longer this time as the details had to be worked out, but they should have a quick turn around in the future.

(M.S.C. Brill/Muncy) to approve the draft ordinance for the lump sum payment of employer-requirement contributions and establishing the August lump sum payment amount based on the actuarial determination. Motion carried 5-0-2. (Absent: Cortese, Recused: Johnson).

**(Back on Agenda)**

**1. Service**

- a. *Rudolph R. Arroyo*, Fire Engineer, Fire Department. Request for Service Retirement effective July 13, 2008; 29.04 years of service.

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

- b. *David A. Bacigalupi*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 32.61 years of service. **(SCD Pending)**

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

- c. *Gaetano Bernardo*, Lieutenant, Police Department. Request for Service Retirement effective July 12, 2008; 29.06 years of service.

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

- d. *Ernest P. Brown*, Officer, Police Department. Request for Service Retirement effective July 13, 2008; 25.08 years of service

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

- e. *Patrick H. Carder*, Fire Engineer, Fire Department. Request for Service Retirement effective July 12, 2008; 28.30 years of service.

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

- f. *James H. Carter*, Deputy Chief, Fire Department. Request for Service Retirement effective July 12, 2008; 35.73 years of service;

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

- g. *Raul J. Castro*, Firefighter, Fire Department. Request for Service Retirement effective July 12, 2008; 30.94 years of service. **(SCD Pending)**

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

- h. *John S. Diquisto*, Fire Captain, Fire Department. Request for Service Retirement effective July 14, 2008; 34.39 years of service.

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

- i. *Steven C. Dixon*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 20.19 years of service.

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

- j. *Luis F. Espineira*, Lieutenant, Police Department. Request for Service Retirement effective June 26, 2008; 25.50 years of service.

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

- k. *Dario C. Estrabao*, Officer, Police Department. Request for Service Retirement effective June 30, 2008; 27.67 years of service.

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

- l. *Michael Evans*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 25.35 years of service.

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

- m. *Ronald A. Ezell*, Officer, Police Department. Request for Service Retirement effective July 12, 2008; 25.86 years of service.

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

- n. *Barry Franchi*, Fire Captain, Fire Department. Request for Service Retirement effective July 11, 2008; 27.97 years of service.

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

- o. *Samuel G. Garcia*, Fire Engineer, Fire Department. Request for Service Retirement effective July 12, 2008; 32.04 years of service. **(SCD Pending)**

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

- p. *Rodney A. Gomes*, Sergeant, Police Department. Request for Service Retirement effective June 14, 2008; 29.69 years of service.

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

- q. *Greg Hemingway*, Fire Captain, Fire Department. Request for Service Retirement effective July 12, 2008; 35.55 years of service.

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

- r. *Kenneth Jacksteit*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 27.24 years of service.

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

- s. *Ronald A. Landeros*, Fire Engineer, Fire Department. Request for Service Retirement effective July 12, 2008; 32.21 years of service. **(SCD Pending)**

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

- t. *William E. Lara*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 27.21 years of service.

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

- u. *Dennis J. Lopez*, Officer, Police Department. Request for Service Retirement effective July 26, 2008; 26.47 years of service.

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

- v. *Gary W. Moe*, Fire Captain, Fire Department. Request for Service Retirement effective July 12, 2008; 30.94 years of service.

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

- w. *David E. Moore*, Fire Captain, Fire Department. Request for Service Retirement effective July 12, 2008; 33.42 years of service.

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

- x. *Thomas D. Murphy*, Sergeant, Police Department. Request for Service Retirement effective June 28, 2008; 29.73 years of service.

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

- y. *Dave Newman*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 27.45 years of service.

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

- z. *Larry J. Samarron*, Firefighter, Fire Department. Request for Service Retirement effective July 27, 2008; 32.27 years of service.

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

- aa. *Thomas W. Sandoval*, Sergeant, Police Department. Request for Service Retirement effective July 12, 2008; 25.07 years of service. **(SCD Pending)**

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

- bb. *Mike E. Smith*, Sergeant, Police Department. Request for Service Retirement effective July 11, 2008; 25.41 years of service.

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

- cc. *Gordon R. Snyder*, Fire Engineer, Fire Department. Request for Service Retirement effective July 12, 2008; 25.15 years of service. **(SCD Pending)**

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

dd. *William Boder*, Fire Engineer, Fire Department. Request for Service Retirement effective July 12, 2008; 27.91 years of service.

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

**4. Deferred Vested**

a. *Michael E. Smith*, Deputy Chief, Fire Department. Request for Service Retirement effective July 17, 2008; 12.99 years of service.

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

**DEATH NOTIFICATIONS – None**

**NEW BUSINESS**

5. Approval of Reduced Retirement Option to be paid to Cathy Hirata, ex-spouse of Retired Sergeant Gary Hirata, effective 6/21/08 under Part 17, Section 3.36.3600, SJ Municipal Code

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

7. Approval of the Third Amendment to the agreement with Nossaman, Guthner, Knox & Elliott, LLP, to increase the contract amount by \$600,000 for a total not to exceed \$1,600,000 with a maximum amount not to exceed \$100,000 for outside local counsel expense.

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

8. Discussion and delegation of authority to Investment Committee to select managers based on Investment Consultant's recommendation.

**Vice-Chair Heredia** asked about the fiduciary responsibility concerning the hold harmless clause in the investment consultant contract.

*Ms. Dent* stated she has a draft contract with NEPC and it does not include a hold harmless provision based on the San Bernadino NEPC agreement, which also did not have a hold harmless clause.

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

**OLD BUSINESS / CONTINUED ITEMS**

9. (a) Approval of draft ordinance amending Chapter 3.36 of San José Municipal Code related to Service-Connected Disability Benefits for Employees of the Fire Department who are members of the Police & Fire Department Retirement Plan.

(M.S.C. Heredia/Muncy) to approve draft ordinance for disability benefits. Motion carried 6-0-1.

(b) Approval of draft ordinance amending Sections 3.36.1270 & 3.36.1280 of Chapter 3.36 of the San José Municipal Code to revise benefit formula for certain surviving spouses and surviving domestic partners of members who are employed in the Fire Department.

(M.S.C. Heredia/Muncy) to approve draft ordinance for survivor benefits. Motion carried 6-0-1.

10. Adoption of Revised Resolution No. 3390 setting contributes rates for Police Members only, to be effective June 29, 2008.

(M.S.C. Muncy/Heredia) to approve Resolution No. 3390. Motion carried 6-0-1.

11. Adoption of Revised Resolution No. 3391 setting contribution rates for Fire Members only, to be effective June 29, 2008

(M.S.C. Muncy/Heredia) to approve Resolution No. 3391. Motion carried 6-0-1.

12. Approval of increase to the P&F portion of the Solutions to Retiree Healthcare Committee's actuarial budget from \$12,500 to an amount not to exceed \$50,000.

**Member Johnson** stated that the City has issued a Press Release that the S&P has upgraded the City of San Jose's bond rating to AAA+.

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

13. Acceptance of Segal's special study on Police Benefit Improvement and authorization to forward on to POA and City Administration.

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

14. Approval of Revised Policy 220.3-P&F-Procurement of Legal Services. **(Deferred to August)**

15. Update on the status of the Sunshine Reform Task Force.

*Mr. Richeda* stated that on June 10<sup>th</sup> the City Council will consider approving the same rules of conduct to other Boards and Commissions, as they have already applied to themselves.

*Ms. Dent* stated that the packet includes the Council resolution for Board information and review. Also, at the June 10<sup>th</sup> meeting the Council will consider the issue of taping closed sessions, and implementing other rules to Boards and commissions on a pilot basis.

16. Oral update on Retreat with City Administration.

**Chairs Skeen** stated the meeting was productive and they came up with a general game plan to go forward.

**The Secretary** stated an additional meeting will be scheduled in a few months to continue discussions.

17. Request for Board action on City Auditor's pending Travel Audit including direction to staff implementing changes and establishment of Travel Committee.

**Chair Skeen** stated he has received overpayments on some travel, which he has written a check back to the Plan for. He directed that each Member traveling be responsible to fill out their own travel expense form and sign it themselves; that staff request that the Auditor audit travel for an additional two years and to review his travel reimbursements specifically, and that the Auditor provide recommendations to the Board on policy. He also stated his resignation from the Audit Committee, and requested that Members Muncy and Johnson serve on a



Travel Committee, and that the Travel Committee review and coordinate with parties to prepare recommendations for the policy.

**Vice-Chair Heredia** stated that it is unfortunate how this audit has unfolded, however he appreciates that the Chair was willing to get in front of the issues. He suggested that hotel selection criteria be used to answer questions as to why they stay where they do, such as proximity. He noted that they also do not stay at hotels that are on the boycott list and that they stay at hotels that have restaurants. This will help to validate the hotels where members stay.

**Member Johnson** and **Muncy** both volunteered to serve on the Travel Committee. The Committee will establish what they wish to accomplish and work with City Administration, Auditors, and staff on issues.

**Chair Skeen** suggested the Committee produce a working document.

**Member Williams** suggested surveying other local companies for their travel policy.

## **STANDING COMMITTEE REPORTS/RECOMMENDATIONS (26-29)**

### **Investment Committee (Skeen, Heredia, Muncy)**

18. Summary of Special Committee Meeting held 17 April 2008.
  - a. Approval for Secretary to negotiate and execute the 11<sup>th</sup> Amendment to the custody agreement with State Street Bank & Trust Co. (formerly Bankers Trust Company of California, N.A.) for contractual settlement services.

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

19. Summary of Special Committee Meeting held 1 May 2008.

*This item is note and file.*

20. Summary of Committee Meeting held 21 May 2008.
  - a. Approval to grant an Investment Policy exception for William Blair & Co. to increase limit for investments in Emerging Market Equities from 25% to the lower of 35% or two-times the MSCI ACWI ex-US Index weight of the international equity portfolio managed by them.
  - b. Approval to modify the P&F Retirement Plan's Investment Policy Statement to include credit strategies, absolute return and real assets.
  - c. Approval of Plan's new Asset Allocation, Option A, as recommended by NEPC.
  - d. Approval of Plan's Private Equity Strategy as recommended by NEPC.
  - e. Approval of the Committee's 2008-2009 Work Plan.

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

### **Real Estate Committee (Skeen, Heredia, Muncy) - None** **Investment Committee of the Whole (Full Board) – None**

### **Joint Solutions to Retiree Healthcare Committee**

21. Acceptance of Solutions to Retiree Health Care Security Committee Final Report and authorization to forward on to City Administration.

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

**Audit Committee**

**22.** Summary of meeting held 23 April 2008.

**Member Johnson** is now a member of the Audit Committee.

**23. APPROVAL OF MINUTES**

Monthly Board Meeting held 1 May 2008

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

**PENDING ACTION LIST**

**24.** Updated list as of 28 May 2008

**Vice-Chair Heredia** asked about the status for the Deputy Director vacancy.

**The Secretary** stated books on applicant profiles were received Tuesday, and he will be meeting with Avery to review candidates.

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

**BENEFITS REVIEW - None**

**CONSENT CALENDAR (Items 25-27)**

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

PROPOSED AGENDA ITEMS - None

PUBLIC COMMENTS - None

EDUCATION & TRAINING - None

**ADJOURNMENT**

There being no further business, the **Chair** adjourned the meeting at 4:04 pm.

---

**MARK SKEEN, CHAIR  
BOARD OF ADMINISTRATION**

**ATTEST:**

---

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