

FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

August 14, 2008

CALL TO ORDER

The Board of Administration of the Federated City Employees' Retirement System met at 8:28 a.m., on Thursday, August 14, 2008, in regular session at the Department of Retirement Services, 1737 N. First St., Suite 600 - San José, California.

ROLL CALL

Present:

DAVID BUSSE

Bill Thomas

Jeffrey Perkins

Matt Loesch

Patrick Skillsky

Forrest Williams

Pete Constant

CHAIR, Civil Service Representative

Vice-Chair, Retiree Representative

Public Member

Employee Representative

Employee Representative

City Council Representative

City Council Representative

ALSO PRESENT:

Russell U. Crosby

-Secretary/Director

Mollie Dent

-City Attorney

Tamasha Johnson

-Staff

Karin Carmichael

-Staff

Udaya Rajbhandari

-Staff

Amanda Ramos

-Staff

Ron Kumar

-Staff

Trish Glassey

-CEO

Veronica Niebla

-Staff

Bob Leininger

-SJREA

Carmen Rocy-Choy

-Staff

Sharon Erickson

-City Auditor's Office

Carol Bermillo

-Staff

Debbi Warkentin

-Staff

Russ Richeda

-Outside Attorney

Maria Loera

-Staff

Donna Busse

-Staff

John Lang

-OED

Allen DeMers

-HR

Micah Bailey

-ITD

Thomas Webster

-Retiree

Mark Danaj

-HR

Kim Young

-SJPD

Steve Hendrickson

-City Auditor's Office

Deanna Santana

-CMO

Jeanne Groen

-HR

REGULAR SESSION

Chair Busse called the meeting to order at 8:28 a.m. He stated that Item 1a has been deferred at the request of the applicant's attorney. He stated the applicant for Item 1b was en route, so Item 1b would be heard later in the meeting. Item 18 has been withdrawn at the request of Member Loesch.

ORDERS OF THE DAY

The **Secretary** announced the appointments of Carmen Racy-Choy, and Donna Busse as Deputy Directors respectively. Also, Ron Kumar's acceptance into the APL, Karin Carmichael as recipient of the first Director's Award, and the receipt from the GFOA of an award for the Board's CAFR.

(Out of Order)

Oral update on City Auditor's pending Travel Audit. (Item 12)

Sharon Erickson, City Auditor, addressed the Board regarding the details of the Travel Audit. She stated the audit is currently in the wrap-up phase. They anticipate the final report to be completed by August 27th, so the Board will have it for their September Board meeting. It is one report relating to both Boards. On September 18th the report will be reviewed by the City Council Finance Committee, and representatives from the Board may wish to provide comments or suggestions at that time.

Ms. Erickson outlined the audit process; stating that they began with a preliminary survey, and then met with various members of staff and Board members. She stated the final report will focus on the improvement of policies and procedures, and generally will not mention names or expenses. She offered that PF requested

an expanded scope of the audit an additional two years, but in the interest of time they only did the most recent two years; however they can do an expanded version at a later date. She apologized for any confusion and thanked everyone for their cooperation.

Mr. Richeda asked of the Auditor, if the report will include recommendations or factual findings specific to each Board. He also asked if priorities and timelines for implementation would be outlined within the report.

Ms. Erickson stated that most recommendations pertain to both Boards but she will go through the report once more. Next month when she returns to present comments on the report, she will address each Board with those items that relate specifically to them.

(Back on Agenda)

RETIREMENTS

CONSENT CALENDAR (Items 2 thru 9)

(M.S.C. Loesch/Perkins) to approve Consent Calendar. Motion carried 7-0-0.

Service retirements approved:

Morette Anderson, August 23, 2008
Elaine Bolender, September 6, 2008
Kevin Briggs, August 9, 2008
Edmund Choy, June 28, 2008
Leon Kimura, August 30, 2008
Margaret Licon, February 2, 2008
Terrance Meehan, June 28, 2008
David Peyton, July 26, 2008
Margaret Rollis, September 6, 2008
Yu Emily Shu, August 9, 2008
Thomas Stoflet, June 21, 2008

Deferred Vested retirements approved:

Donald R. Coulter, August 2, 2008
Michael Flores, August 7, 2008
Cynthia L. Morrell, September 1, 2008

DEATH NOTIFICATIONS (Item 10 - Moment of Silence)

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

OLD BUSINESS (Items 11-13)

11. Oral update on the status of the Sunshine Reform Task Force.

Ms. Dent stated there will be trainings this month and through September on the new requirements. SRTF has a target date of November to have all recommendations in place.

13. Approval to change the termination date of retirement benefits for Janet C. Kern from June 28, 2008 to July 5, 2008. (Deferred Vested Retirement effective 8/1/06 and Board approved reinstatement into the Plan at 6/14/08 Board meeting).

(M.S.C. Loesch/Perkins) to approve. Motion carried 7-0-0.

NEW BUSINESS (Items 14 – 20.)

14. Request for Board action on Lowest Cost Plan for the purpose of determining the medical insurance premium to be made by the Plan on

behalf of retirees for coverage commencing 1 January 2009, from the medical benefits account established pursuant to SJ Municipal Code Section 3.28.1980.

Mr. Richeda provided background for his memorandum of 7/31/07. He stated that the use of system assets for retiree medical premiums is a very important issue to retirees. The measure for determining the level of retiree premium assistance is set forth in the Municipal Code. The relevant Municipal Code provisions are ambiguous on this issue. The Board must therefore exercise its discretion to interpret these provisions. In exercising its discretion, the Board must select an interpretation that is reasonable, consistent with the legislative intent, and consistent with the Municipal Code language. The facts have changed since last November since over 60% of employees are now eligible for the Kaiser Co-pay plan. A reasonable interpretation of the relevant Municipal Code provisions would be an interpretation of lowest cost medical plan as a plan with the lowest premium that is available to most City employees. The Kaiser Co-pay plan would be such a plan.

Member Loesch asked if the percentage mattered for determining the Kaiser Co-pay plan as the lowest cost medical plan, and can the Kaiser Co-pay plan be viewed as a reduction in benefits? Also, he wanted to know whether, if a Code change was proposed to clarify the ambiguity, it would be subject to meet and confer?

Mr. Richeda responded that one element of reasonableness is whether a medical plan has been one to which both bargaining parties have concurred as a result of meet-and-confer. There is a conceptual difference between premiums which affect all individuals equally and plan design issues such as co-pays and deductibles which affect individuals in varying degrees; so it may or may not be a reduction in benefits. The Municipal Code provisions focus on premiums, not plan design. If a Code change was suggested, it would be subject to meet and confer.

Ms. Dent stated the City Attorney's Office stands by its position that the Municipal Code language is not ambiguous and the intent is clear. To change the Code would be subject to meet and confer and could affect the issue of vested rights.

Mr. Leininger stated he has 2600 retirees in the association and they did an analysis of income levels, and some have low income. In looking at the legislative intent and the practice for the past 35 years, the lowest cost medical plan has always been measured by the premium of the lowest cost traditional medical plan. If you have an individual with vested rights he doesn't see how that right can be modified. The proper direction for the Board would be to look at the traditional lowest cost plan, and perhaps explore it further with the Solutions to Retiree Healthcare Committee.

Member Constant stated he agrees that the benefits are a contractual arrangement. He does not believe that the vested rights extend to a specific plan, but the Code states lowest cost plan, which may or may not have co-pays.

(M.S.C. Constant/Loesch) based on the fact that the Kaiser Co-pay plan is available to employees and unrepresented members, the Kaiser Co-pay plan qualifies as the lowest cost plan under the Municipal Code and that staff are to implement this motion with respect to the upcoming open enrollment period. Motion carried 6-1-0. (Thomas – No).

(Out of Order)

RETIREMENTS

Disability Retirements for hearing (Item 1b.)

Kim Young, Public Safety Dispatcher II, Police Department. Request for a Service-Connected Disability Retirement effective August 25, 2007, 4.08 years of service.

For the record the following medical reports have been received:

<u>Doctor's Name</u>	<u>Report Date</u>
DONALD PANG, M.D.	2/28/08 (FOUR REPORTS) : 10/3/07 : 9/13/07 : 6/21/07 : 5/9/07 : 4/18/07 : 11/21/06 : 10/19/06 : 10/17/06 : 8/22/06 :
FULTON CHEN, M.D.	8/3/06 : 7/18/06
RAMON GARCIA, M.D.	5/25/06
KIM YOUNG –APPLICANT	5/25/06

<u>Board's Medical Director</u>	<u>Report Date</u>
RAJIV DAS, M.D.	6/9/08 : 5/12/08: 4/2/08

Dr. Das stated that Ms. Young's application is based on a diagnosis of carpal tunnel syndrome. She has undergone some surgery and has a sensory feedback problem. His restrictions are ones to avoid further injury, and the primary issue is determining causation. He explained typically what triggers these injuries and added that Ms. Young's diagnosis is unlikely work related.

Ms. Young stated that she is unaware how she sustained her injuries. She just knows that she can longer function in her current job.

Members of the Board and *Ms. Young* discussed the timeline of her injuries and treatment.

Member Williams stated that part of the disability retirement process is finding the cause of the injury being a result of one's work, which he cannot determine from the medical evidence in her file.

(M.S.C. Perkins/Constant) to deny a service-connected disability retirement. Motion carried 7-0-0.

(Back on Agenda)

15. **Discussion of Saltzman & Johnson memo concerning whether the Board should apply to the IRS for determination on the tax-qualified status of the Plan and Board direction to attorneys and staff concerning whether to seek an IRS determination letter.**
16. **Request for Board direction to City Attorney's Office to initiate an updated internal Tax Compliance Review of the Plan; authorization for Director to negotiate and execute an amendment to the Plan's conflict counsel's agreement with Saltzman & Johnson to amend the scope of work to include providing services related to the internal tax compliance review, at a cost not to exceed \$20,000 and no increase in maximum amount payable under the agreement; and direction to City Attorney's Office to return to Board in September with a work plan for completion of tax compliance review, including the option of seeking an IRS determination letter.**

Mr. Richeda took Items 15 and 16 together and provided the background information that was detailed in his memo. He stated that one way to confirm Plan compliance with the provisions of the Internal Revenue Code is to apply to the IRS for a determination letter. This is not a requirement but it is something the Board may wish to consider. If the Board would like to apply the deadline to do so is the end of January 2009; if not then we would have to wait 5 years. He stated it would be appropriate to have the Plan reviewed to enhance Internal Revenue Code compliance, initiate the process, and engage in due diligence prior to applying to the IRS.

Ms. Dent stated there are some advantages to having the letter, but whether it is worth the workload involved is a separate issue to consider. She stated that the Plan documents would need to be reviewed and any problems identified. She offered to bring back a more thorough discussion of the process and why the Plan would want to go forward.

The Secretary asked if and when a tax compliance review had been conducted on either the Fed or PF

Plans.

Ms. Dent and Mr. Richeda collectively agreed that one had been performed in 2000 for PF, and one was initiated for the Fed Plan; however it was not completed.

(M.S.C. Perkins/Constant) to approve beginning the data collection and commence the tax compliance review process. Motion carried 7-0-0.

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

<u>Trustee</u>	<u>Conference Name/Location/Dates</u>
Pete Constant	IFEBP's International Investing & Emerging Markets, San Francisco, August 25 thru 28, 2008.
Matt Loesch	IFEBP's International Investing & Emerging Markets, San Francisco, August 25 thru 28, 2008.
Patrick Skillsky	IFEBP's CS Basic Investments, SJ, October 13 & 14, 2008
Pete Constant	IFEBP's 54 th Annual Employee Benefits Conference and Pre-Conference, San Antonio TX, November 15 thru 19, 2008

(M.S.C. Perkins/Williams) approved the travel requests for attendance at educational conferences. Motion carried 7-0-0.

19. Approval of a change to Stephanie Connor's service retirement date from 7/12/08 to 6/28/08.

(M.S.C. Perkins/Constant) to approve. Motion carried 7-0-0.

20. Presentation by the City's Information Technology Department Introducing the new VoIP Phone System.

Mr. Bailey from the City's ITD presented what VoIP is and how it works. He stated the phone will now be a computer but working just like a regular telephone; however it will provide advanced capabilities such as enhanced voicemail, caller ID, and it will be connected on the City system. Mr. Bailey continued that the service is cost effective since there is only one network to maintain. It has Plug n' Play capability, which means that if a department moves to another location they can pack up their equipment and plug it in at their new location and it will be ready to use. A few of the enhanced features are that the phone will have a personnel directory that can store up to 100 frequently dialed numbers, and can do conference calls with up to five people. He introduced some before and after abilities. Then he stated that the new system will have a phone tree for ease connecting to appropriate parties. A caller will hear the welcome greeting, and can dial a selection to be routed to the division they need, or they have the option to speak with an operator. He went over the cost associated with the new phones and stated that the return on investment will be seen within 2.2 years. He closed his presentation by stating the VoIP system has a robust foundation for incorporating future features.

The Secretary stated the conversion to the new system will be occurring soon. There will be minimal tree usage, but wanted to make sure Plan members have the information. This improvement has already been budgeted and approved by the Board. Trustees will be given notice prior to implementation.

STANDING COMMITTEES / REPORTS / RECOMMENDATIONS (Items 21-24)

Investment (Committee of the Whole)

a. Summary of meeting held 22 May 2008

This item is note and file.

Committee for Investments (Perkins/Loesch/Busse – alternate/Williams)

a. Summary of meeting held 26 June 2008

1. Approval of International Equity Structure

(M.S.C. Loesch/Constant) to approve. Motion carried 7-0-0.

2. Approval of Fixed Income Structure

(M.S.C. Loesch/Constant) to approve. Motion carried 7-0-0.

Mr. Patrick Thomas, SIS Consultant, stated that the changes being proposed to the overall total Plan asset allocation should increase the expected return by around 78 basis points.

Real Estate Committee (Williams/Skillsky/Thomas– alternate/Busse) - Next meeting 12 June 2008

a. Summary of meeting held 12 June 2008

This item is note and file.

Member Skillsky was appointed to serve on the Real Estate Committee.

Policy Committee (Busse/Perkins/Constant) – TBD

The Chair stated he intended to call a meeting of the committee once the audit report is received.

Member Constant offered to fill the vacant seat on the Committee.

EDUCATION AND TRAINING - None

PUBLIC/RETIREE COMMENTS

FUTURE AGENDA ITEMS

CEREMONIAL PRESENTATION

21. Presentation of commendation to Tom Webster.

Chair Busse read the recitals into the record.

The Board expressed their appreciation, thanks, and congratulatory remarks to Mr. Webster.

Mr. Webster thanked the Board and stated he plans to remain committed to serving the System in his retirement in his capacity as a member of the Retirees Association.

ADJOURNMENT

There being no further business, at 10:37 a.m., Chair Busse adjourned the meeting.

DAVE BUSSE, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

RUSSELL U. CROSBY, DIRECTOR
BOARD OF ADMINISTRATION