

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

March 5, 2009

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:40 a.m., on Thursday, March 5, 2009, in regular session at Department of Retirement Services, 1737 N. First St, Suite 600 - San Jose, CA.

ROLL CALL

Present:

DAVID BACIGALUPI

BILL BRILL

SCOTT JOHNSON

ROSE HERRERA

SAM LICCARDO

Acting CHAIR

Trustee

Trustee

Trustee

Trustee

ALSO PRESENT:

Russell Crosby	-SECRETARY	Mollie Dent	-City Attorney Office
Russell Richeda	-Saltzman & Johnson	Debbi Warkentin	-Staff
Tamasha Johnson	-Staff	Donna Busse	-Staff
Carol Bermillo	-Staff	Jesselle Holcomb	-Staff
Amanda Ramos	-Staff	Maria Loera	-Staff
Toni Johnson	-Staff	Bruce DeMers	-P&F Retirees
Veronica Niebla	-Staff	Conrad Taylor	-POA
Rhonda Snyder	-Staff	Aracely Rodriguez	-OER
Marco Mercado	-OER	Jeff Rickets	-POA
Mike Rosingana	-P&F Retirees	Karin Carmichael	-Staff
Mike Moffett	-SJFD	Ron Kumar	-Staff
Toni Johnson	-Staff	Jim Jeffers	-Attorney
Bruce DeMers	-P&F Retirees	Eric Ramones	-SJFD
Ali Amiry	-Staff	Lt. Mark Bustillos	-SJPD
Jon Young	-Council Asst	Bill Thomas	-Fed. Retiree
Sandra Holloway	-SJPD	Samuel Mojica	-SJPD
Carlos A. Miranda	-P&F Retiree	Thomas Sandoval	- P&F Retiree
Ken Keesling	- Local 230	Soren Coats	- Local 230
Joe Hernandez	-SJPD	Jennifer Malutta	-City Council Rep.

REGULAR SESSION

ORDERS OF THE DAY

The Secretary called the meeting to order at 8:40 a.m. He stated Item 12 would be heard first, immediately after will be Item 9.

OLD BUSINESS (Out of Order)

12. **Advice from Board's attorneys and discussion concerning quorum and voting requirements for Board action.**

Ms. Dent stated investigation of the Municipal Code had been performed regarding the voting requirements for the Board to determine the election of the Chair, resulting in a conclusion that 3, not 4, votes were needed to take Board action. At the last meeting, Mr. Bacigalupi was elected the temporary Chair for that meeting. The

Board needs to elect a Chair again for at least this meeting, or through additional meetings, or for remainder of the term. She responded to a question posed by Acting Chair Bacigalupi regarding the Code as it pertains to the Board. She stated that there was a specific Municipal Code section that applied to the Police and Fire Board.

13. Election of Board Chair and Vice Chair for 2009. (Cont'd from February agenda)

(M.S.C. Herrera/Brill) to elect Mr. Bacigalupi to continue as Acting Chair for this meeting, and until the next meeting, and to continue this discussion to the next meeting. Motion carried 5-0.

9. Request to terminate retirement benefit of Samuel Mojica effective March 9, 2009.

The Secretary stated this item is a part of Item 1b. Mr. Mojica was approved for a service retirement in December; however due to a system error he did not have enough years of service to be eligible for retirement. Since this error did not derive from anything Mr. Mojica had done; the department was willing to allow him to return to work for 40 hours; and if it were not for the error he would have worked the extra 40 hours and retired with his COLA, staff recommends that his request be granted.

(M.S.C. Herrera/Brill) to approve. Motion carried 5-0.

(Back on Agenda)
RETIREMENTS

1. Service

a. **Bucky R. Harris, Police Officer, Police Department. Request for Service Retirement effective March 7, 2009; 25.01 years of service.**

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

b. **Samuel Mojica, Police Officer, Police Department. Request for Service Retirement effective March 13, 2009; 25.00 years of service with 3% COLA. (SCD Pending) (TO BE HEARD IMMEDIATELY AFTER ITEM #9)**

Acting Chair Bacigalupi apologized for the error.

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

2. Disabilities

a. **Arthur Serenil, Police Officer, Police Department. Request for Nonservice-Connected Disability effective March 5, 2009; 20.55 years of service.**

Police Officer Serenil was present and represented himself.

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

CATHERINE CURTIN	8/20/08; 10/21/08
ASHOK RAO	11/17/06; 10/27/08; 10/21/08 (2 RPTS)
LEROY EGENBERGER	8/5/08; 9/7/08
ANDREW HO	10/7/08
CINDY LIU	10/4/06
PHILLIP SIEGEL	8/15/05

Medical Director

Date

RAJIV DAS, M.D.	1/15/09
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(M.S.C. Brill/Liccardo) to approve. Motion carried 5-0.

3. Change in Status

- a. **Carlos A. Miranda, Retired Police Captain. Request for change in status to Service-Connected Disability Retirement effective January 24, 2009; 27.98 years of service.**

Retired Police Captain Miranda was present and represented himself.

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

1. JAMES RHEE, M.D.	11/05/08
2. RENEE OWNBEY, D.C.	10/10/08, 08/30/08 (2 REPORTS), 05/21/01
3. DR. MILLARD	09/02/08
4. RONALD GEMBERLING, M.D.	08/28/08 (2 REPORTS), 02/24/05, 01/14/05
5. MICHAEL WALL, M.D.	08/22/08 (2 REPORTS), 10/16/07
6. JOHN MASSEY, M.D.	03/18/08
7. RENEE WALL, P.A.	02/11/08, 10/07/07, 08/15/07
8. WILSON ACUPUNCTURE AND HERBOLOGY CLINIC	10/10/07
9. JEFFREY COE, M.D.	06/13/07 (2 REPORTS)
10. DONALD FOX, M.D.	05/17/07
11. KEVIN ERNSTING, M.D.	05/09/07
12. JACK PIASECKI, M.D.	04/12/07
13. BARRY ROBBINS, M.D.	01/14/05
14. JAMES SCHNEIDER, M.D.	09/19/96
15. MARK WILSON, LAC	05/13/96
16. ROBERT MILLARD, M.D.	02/05/96, 10/24/95
17. CHARLES GRIFFIN, M.D.	04/10/95
18. MARK ANDERSON, M.D.	03/27/95
19. DAVID GILKEY, D.C.	12/17/92, 11/03/92
20. ROBERT LA ROQUE, M.D.	10/14/92
21. RICHARD WEBSTER, D.C.	12/19/90, 11/09/90
22. JOHN NOONAN, M.D.	09/17/90
23. JEROME CHESTER, M.D.	03/27/90
24. JOHN STAHLER, M.D.	08/28/89

Medical Director	Date
RAJIV DAS, M.D.	1/14/09

The Board discussed with Dr. Das and legal counsel the provisions for providing modified duty, the role of Das' reports to the Board, and the language in the Municipal Code that relate to disabilities.

Captain Miranda stated his career history and the incidences leading up to his resulting inability to work.

(M.S.C. Brill/Liccardo) to approve. Motion carried 5-0.

- c. **Thomas W. Sandoval, Retired Sergeant. Request for change in status to Service-Connected Disability Retirement effective July 12, 2008; 25.07 years of service.**

Retired Sergeant Sandoval was present and was represented by *Mr. Boyle*.

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

RONALD BENSON, D.C.	6/26/08; 6/23/08; 9/13/06
MICHAEL MATSUMOTO	10/2/08; 6/19/08 (2 RPTS); 3/31/08 (2 RPTS)
THOMAS SANDOVAL (HISTORY OF ILLNESS)	1987-2006
HARVEY KNOERNSCHILD	3/20/07; 12/6/06
EFREN ROSAS	8/20/06; 8/11/06; 3/14/06
PHILIP ENGLEMAN	8/11/06
JAMES O'DONOHUE	8/10/06; 2/20/06; 9/29/05 (2 RPTS)
GORDON THENEMANN	5/15/06
HENRY KLEINBERG	2/21/06 (2 RPTS)
RENEE OWNBERY, D.C.	10/1/05; 4/21/04
LUCY LIN	9/6/05; 4/14/05; 2/22/05; 4/22/04
ROBERT FILPI	5/26/05
RANDY PI	2/23/05
PETER ABACI	1/26/05
MARK LARSEN	4/30/04

Medical Director	Date
RAJIV DAS, M.D.	1/20/09; 12/11/08; 8/19/08

Dr. Das stated he spoke to the applicant's treating physician regarding the restrictions, and determined that six (6) hours a day is reasonable. The six (6) hour workday restriction is based on new information.

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

4. Deferred Vested

- a. Patrick D. Killen, Police Officer, Police Department. Request for Service Retirement effective March 27, 2009; 15.25 years of service.**

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

DEATH NOTIFICATIONS

- 5. Notification of the death of Eugene J. Germano, Retired Fire Master Mechanic; retired 1/12/80, died 2/6/09. No survivorship benefits to be paid.**

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

- 6. Notification of the death of James R. King, Retired Fire Engineer; retired 4/1/79, died 1/29/09 and survivorship benefits to Barbara J. King, spouse.**

(M.S.C. Herrera/Liccardo) to approve. Motion carried 5-0.

- 7. Notification of the death of Ronald H. Smith, Retired Sergeant; died 1/3/09 and survivorship benefits to Karen Day Smith, spouse.**

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

NEW BUSINESS

- 8. Approval to conduct a Request for Qualifications for Actuarial Services.**

The Secretary stated the Segal contract expires on 6/30/09, so it would be a good time to examine the market.

Mrs. Racy-Choy stated there is some outstanding work for the CAFR, which will be covered by the period still under contract, and any minor work will not be an issue.

(M.S.C. Herrera/Brill) to approve. Motion carried 5-0.

10. Approval of Department of Retirement Service's Budget Proposal for the Fiscal Year 2009-2010.

Mrs. Niebla presented the proposed budget for Fiscal Year 2009-10. She stated it had been developed to manage the \$2 billion in pension assets in an increasingly complex financial market. The budget compared the budget from the previous fiscal year, current year adopted and forecast, and the proposed next year budget. The total change in the budget was a decrease of -11.3%. Items proposed include staff reorganization; including reclassification of four existing positions and addition of four (4) investment professional positions; acquiring investment related databases; additional space to accommodate additional investments staff; creation of interview rooms for confidential retirement counseling; additional actuarial services; increased real estate appraisal budget; and, additional budget for Pension Gold annual maintenance support due to expected contract amendment. Also, there will be a continuation of pending fiscal year 2008-09 budget proposal items, including, the Business Continuance Plan (which is the Fire suppressant system for the server room), and the updating of the Document Imaging Servers and addition of a second station. Other factors that increased the current fiscal year budget were the Board approval of items after the budget for fiscal year 2008-09 was adopted including the Board's Fiduciary Insurance, and Investment legal counsel.

Mrs. Busse stated the cost increased significantly for the fire suppressant system, so Information Technology group did a cost benefit analysis and found the servers to be only a few thousand dollars to replace.

The Secretary stated LRS has a back-up site for our data storage, so information is kept off-site in the event of a catastrophe here. Last month a disaster simulation was staged and LRS and staff worked effectively in bringing the department on-line again.

Acting Chair Bacigalupi stated he would like to see more budget details, but thinks that the department is moving in the right direction compared to other plans. He would like to see an organization chart with the current, future, and interim details. Additionally, he would like to see the organization charts for other plans. The detail adds more comfort when bumping up the budget.

Member Herrera stated she is pleased to have more staff overseeing \$2 billion, since staff size seemed relatively small. She supports the direction and would like to see the additional details of the staff reorganization.

The Secretary stated he has been in coordination with the City, so he would like for the Board to be comfortable. Staff will bring back the requested detailed information. Another item that has been brought up for discussion is the possibility of the Board budgeting for a portion of the salary for services performed by Ms. Dent, since she provides support in addition to Board meetings.

(M.S.C. Herrera/Johnson) to defer to next month with additional information provided. Motion carried 5-0.

11. Action on Police & Fire Retirement Board member nomination petitions for both Police representative and Fire representative and authorization for staff to forward Board's recommendation on to Clerk's Office.

The Secretary stated the Board received statements from two candidates, one police representative, and one fire representative.

Member Liccardo asked why applicants were asked about the Plan's money being public funds or not. Additionally, he asked what the City Attorney's Office stance on that matter is.

Ms. Dent stated the Funds are held in trust. The City contributes public money, which at that point it becomes the Trusts'. She assumes the question was asked to find out if the applicant understood the Plan structure, and to get applicants to focus on the issue of administering public money.

Member Herrera spoke to candidate Conrad Taylor's background, and asked what his limitations and expertise are.

Mr. Taylor stated he has been a police officer for 16 years; he has 8 years in tax accounting, and he can analyze numbers extremely well. He is always learning.

Acting Chair Bacigalupi asked if Mr. Taylor received support from any unions.

Mr. Ricketts stated he serves on the deferred comp board, he saw his training and exceptional record, so the Police Officers Association voted to recommend him to the Board.

Member Liccardo commended the POA for their recruiting efforts to get a quality candidate.

(M.S.C. Brill/Bacigalupi) to approve recommending candidate Taylor to City Council for appointment. Motion carried 5-0.

Acting Chair Bacigalupi introduced the Fire representative Mr. Keith Keisling.

Member Johnson asked Mr. Keisling what interests him about serving on the Board, and to provide any relevant financial background information.

Mr. Keisling stated he has a bachelor's in Fire Administration; he served on a Board as a treasurer, and managed grants.

Acting Chair Bacigalupi asked if he had support from the union.

Mr. Coats stated Local 230 is in full support of Keith Keisling, and they feel he will be a great asset to the board.

(M.S.C. Brill/Bacigalupi) to approve recommending candidate Keisling to City Council for appointment. Motion carried 5-0.

OLD BUSINESS/CONTINUED-DEFERRED ITEMS

14. Request for discussion and direction to staff on Segal's Report on Actuarial Valuation of Retirement Health Benefits as of 30 June 2007 (GASB 43/45) and authorization to forward on to City Administration (Cont'd from February agenda).

This item was deferred to April.

15. **Travel Audit compliance update.**

Mrs. Niebla stated representatives from the city Auditor's office met with staff to follow up on updates to recommendations. The Audit Committee met on 2/27 and will be setting up an additional meeting to make recommendations to the board.

16. **Update on the soundness of the P&F Retirement's investment portfolio.**

Mr. Kumar recommended deferral of this item to the Committee of the Whole, which will be meeting immediately following the Board meeting.

STANDING COMMITTEES / REPORTS / RECOMMENDATIONS

Investments Committee (Johnson, Bacigalupi, Liccardo) – Nxt Mtg: 3/5/09

Real Estate Committee (Johnson, Bacigalupi, Herrera) - Nxt Mtg: 3/5/09

Investment Committee of the Whole (Full Board) – Nxt Mtg: 3/5/09

Audit Committee (Bacigalupi, Brill, Johnson) – last meeting 27 February 2009

CONSENT CALENDAR (Items 19-26)

(M.S.C. Herrera/Brill) to approve with the exceptions of Items 24b, and 17a. Motion carried 5-0.

17a. Approval of Minutes

a. Monthly meeting held 5 February 2009

Acting Chair Bacigalupi stated he would like the motion on the Nominations on the Chair and Vice-Chair in the minutes to reflect that there was a substitute motion prior to the approved motion.

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

Communication/Information

24b. Russ Richeda's Legal and Legislative Update

Ms. Dent stated that an amendment to the Brown Act became effective January 1, 2009. This change came out of a case over 2 years old regarding the City of Fremont. It was claimed the City Manager had violated the Brown Act by talking to Council members about an item that was on a Council agenda. An item that was to be decided by the Board at a future meeting was discussed with each member individually in an effort to create a consensus on the Board. The case turned on whether or not there had been an effort to develop a consensus regarding a public meeting outside of the meeting. Ms. Dent reminded the Board that the City offers AB 1234 training on this and other issues every 3-6 months, which can be completed online. She stated a memo will be provided to the Board.

Member Johnson stated the online training is very helpful and you receive a certificate upon completion. He believes City Council will be having an upcoming training, which he will obtain the material for the Board.

(M.S.C. Brill/Herrera) to approve. Motion carried 5-0.

PROPOSED AGENDA ITEMS

The following was requested to be discussed at a future meeting

1. Brown Act Update Memo by Mollie Dent
2. Ethics 1234 Training and Schedule Update by Mollie Dent
3. Disability Evaluation Alternatives

PUBLIC COMMENTS

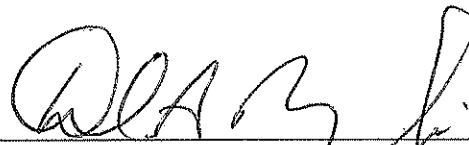
Mr. Ricketts commented on disabilities and confidentiality of personal information.

Ms. Dent clarified that disability matters in these instances do not fall under HIPPA guidelines.

EDUCATION AND TRAINING

ADJOURNMENT

There being no further business, **Acting Chair Bacigalupi** adjourned the meeting at 11:00 am.



**DAVID BACIGALUPI, ACTING CHAIR
BOARD OF ADMINISTRATION**

ATTEST:



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