

POLICE AND FIRE RETIREMENT PLAN

Minutes of the Board Meeting

THURSDAY

SAN JOSÉ, CALIFORNIA

June 1, 2006

CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:38 a.m., on Thursday, June 1, 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

DAVID CORTESE

CINDY CHAVEZ

Fire Employee Representative

Retiree Representative

Civil Service Representative

City Administration Representative

Police Employee Representative

City Council Representative

City Council Representative

ALSO PRESENT:

Edward F. Overton -SECRETARY / DIRECTOR

Susan Devencenzi -City Attorney

Russ Richeda -Saltzman & Johnson

Tamasha Johnson -Staff

Judy Powell - "

Donna Busse - "

Maria Loera -Staff

Debbi Warkentin -Staff

Susan Perreira - "

Jim Spence -SJPOA

Richard Fairhurst -SJPD

John Flatley -Fire Retired

Rhonda Snyder -Staff

Karin Carmichael - "

Marty Jo Luis -SJPD

John Tennant -POA

Allen Dye -POA

Linda Jonasson -Beneficiary

Randy Sekany -L230

Alex Gurza -OER

Tom Webster -Staff

Carol Bermillo - "

Roger Pickler -Staff

Toni Johnson - "

Udaya Rajbhandari - "

Colleen Hy -Staff

Aleta Holcomb - "

Ron Kumar - "

Aracely Rodriguez -OER

Jim Jeffers -Attorney

Donald Head -SJPD

Dan Bourdon -Fire Retired

Kerry Burns -Fire

Cathy Poletti -SJPD

Sam Swift -Attorney

Jeff Ricketts -SJPD

Ira Summer -Public Pension Prof.

Don Jonasson -Beneficiary

Mike Pribula -Staff

Robert Lopez -POA

REGULAR SESSION

ORDERS OF THE DAY

The Chair called the meeting to order at 8:38 a.m.

RETIREMENTS

Service

Paul Ayooob, Police Officer, Police Department. Request for Service Retirement effective July 29, 2006; 25.77 years of service.

(M.S.C. Heredia/Muncy) to approve application. Motion carried 5-0-2 (Chavez arrived 8:42 a/Cortese arrived 8:44 a).

Victor Hernandez, Jr, Police Officer, Police Department. Request for Service Retirement effective July 15, 2006; 25.23 years of service.

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

Diane Harris, Police Officer, Police Department. Request for Service Retirement effective July 15, 2006; 27.77 years of service.

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

Michael R. Johnson, Police Officer, Police Department. Request for Service Retirement effective July 15, 2006; 25.23 years of service.

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

John D. Martorano, Police Officer, Police Department. Request for Service Retirement effective June 3, 2006; 20.07 years of service.

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

Jonathan E. Muller, Police Officer, Police Department. Request for Service Retirement effective July 15, 2006; 20.56 years of service.

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

Arthur M. Munoz, Lieutenant, Police Department. Request for Service Retirement effective July 15, 2006; 28.83 years of service.

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

Michael K. Nagel, Police Officer, Police Department. Request for Service Retirement effective July 15, 2006; 27.45 years of service. **(SCD Pending)**

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

John Savala, Sergeant, Police Department. Request for Service Retirement effective July 15, 2006; 29.09 years of service.

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

Robert R. Serpico, Sergeant, Police Department. Request for Service Retirement effective July 29, 2006; 29.58 years of service.

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

Gregory A. Trapp, Sergeant, Police Department. Request for Service Retirement effective July 15, 2006; 29.50 years of service.

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

Joseph M. Unland, Sergeant, Police Department. Request for Service Retirement effective July 29, 2006; 26.20 years of service.

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

Disabilities - None

Change in Status

Patrick A. Bowers, Retired Fire Engineer. Request for change in status to Service-Connected Disability Retirement effective December 31, 2005; 25.35 years of service.

Retired Fire Engineer Bowers was not present and was represented by *Sam Swift*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Patrick McCreesh, M.D.	3/5/06; 6/23/05; 1/6/05; 9/20/04; 5/19/04; 1/12/04
James Zuckerman, M.D.	7/29/05; 9/10/04
Lawrence Chan, M.D.	5/10/05; 1/12/05
Kenneth Blumenfeld, M.D.	3/23/05; 7/22/04
Betsy Holland, M.D.	3/8/05
Richard Derby, M.D.	3/8/05; 7/1/02
Ramavtar Singh, M.D.	4/24/04
Satish Sharma, M.D.	2/6/04; 10/29/03
Mark Culton, M.D.	1/21/04
Duc Nguyen, M.D.	1/15/03; 5/30/02
Eugene Wolf, M.D.	1/10/03; 9/03/02; 11/05/97
John Mar, M.D.	10/17/02
Grady Jeter, M.D.	8/16/96; 6/6/96; 2/28/96
P. Estacio, M.D.	11/22/95
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	5/10/06; 5/5/06

Dr. Das summarized Mr. Bowers' surgical procedures and the work restrictions provided to the Board.

Mr. Swift noted that Mr. Bowers' right knee problem began in 1983. He further described other injuries and discussed surgeries that were done. He also stated that Mr. Bowers' was declared permanent and stationary in

January 2006 and the restrictions were developed and agreed upon by his treating physician and Dr. Das. He stated that the Department did not have work available that meet his restrictions.

(M.S.C. Muncy/Brill) to approve application. Motion carried 7-0-0.

John P. Flatley, Retired Battalion Chief. Request for change in status to Service-Connected Disability Retirement effective December 31, 2005; 29.66 years of service.

Retired Battalion Chief Flatley was present and was represented by *Sam Swift*.

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

<u>Doctor's Name</u>	<u>Report Date</u>
Patrick McCreesh, M.D.	2/27/06; 12/26/05; 11/16/05; 10/31/05; 10/28/05; 9/26/05; 2/21/05; 12/30/04 (2 Rpts.); 11/15/01
Kenneth Blumenfeld, M.D.	12/9/05
Lawrence Chan, M.D.	10/26/05
Mark Larsen, M.D.	2/10/05
Murray Solomon, M.D.	2/11/01
Joel Saal, M.D.	8/16/01; 2/5/01; 7/13/00; 12/7/95
David Ziegler, M.D.	7/31/91
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	5/18/06

Dr. Das went through the medical findings and explained the work restrictions.

Mr. Swift stated there was 28 reported injuries and described some of those. He also described the findings from the MRI/EMG and those of the surgeon. He stated that Mr. Flatley was declared permanent and stationary in February 2006 and that based on the work restrictions the department does not have any positions available that can accommodate his work restrictions.

(M.S.C. Heredia/Chavez) to approve application. Motion carried 7-0-0.

Steven Marcotte, Retired Sergeant. Request for change in status to Service-Connected Disability Retirement effective December 31, 2005; 29.82 years of service

Retired Sergeant Marcotte 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>
Scott Regier, D.C.	12/9/05
Lawrence Chan, M.D.	11/25/05
Scott Wachhorst, M.D.	11/17/05; 12/29/04; 5/7/04; 10/3/03; 1/28/03; 7/2/02
Robert Millard, M.D.	7/7/04; 10/17/03; 5/10/02; 8/22/01
Murray Solomon, M.D.	12/3/03
Mark Culton, M.D.	2/11/03; 9/25/02

John Welsh, M.D.	9/10/02
Mahesh, Patel, M.D.	7/17/02
Maria Musumoto, M.D.	7/12/02
Andrew Durkin, M.D.	1/25/02; 8/31/01
Mark Eastland, D.C.	4/4/01

<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	5/9/06

Dr. Das described the medical issues and explained that the inability to work is primarily tolerance for pain. *Mr. Jeffers* explained that *Mr. Marcotte* retired six months ago and he described his career. He stated that a car crash that occurred during a chase on the job has been the major source of these problems. He also stated that the current medication he must take interferes with his ability to take pain medication.

Retired Sergeant Marcotte discussed his on-going treatment and his conditions. He explained the risks of his condition and his inability to take pain relievers due to a prescribed medication and how he tried to work and only aggravated his condition and inability to do certain activities.

Member Heredia asked *Dr. Das* to explain what is meant by an inability to work based on tolerance for pain.

Dr. Das explained that this is not a functional preclusion meaning if you don't have a leg you can't walk across the hall; there is a difference between having an absolute preclusion from being able to do something versus depending on someone's ability to tolerate doing that. So this is a more subjective component to it.

Member Heredia and *Mr. Marcotte* discussed his last days of work and the time he was off on disability.

Chair Skeen asked the department what modified duty position(s) they had available.

Ms. Poletti stated that he could remain in his position in the fraud unit; however it would have to be a fulltime position, as they have no permanent part-time work available.

(*M.S.C. Chavez/Heredia*) to approve application. Motion carried 7-0-0.

Donald A. Meade, Retired Police Officer. Request for change in status to Service-Connected Disability Retirement effective January 29, 2005; 29.55 years of service.

Retired Police Officer Meade 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>
Gregory Cusack, D.C.	10/5/05; 10/4/99; 5/10/90
Terrance Delaney, M.D.	4/5/05; 11/19/04; 10/17/03; 5/9/03
Audiology Correspondence	10/20/04
Bruce Huffer, M.D.	6/16/03
Barry Baron, M.D.	6/6/03
Martin Trieb, M.D.	11/99
Aubrey Swartz, M.D.	7/21/90; 11/21/86

Randall Yee, M.D.	5/18/87
Keith Ford, M.D.	12/3/86
Charles Borjia	7/23/87; 10/22/86; 7/8/86; 12/11/85
Charles Johnston, M.D.	6/12/87

<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	4/20/06

Dr. Das described his medical condition and the restrictions.

Mr. Jeffers stated that we are dealing with multiple disabled body parts. He described his career. He also stated that Mr. Meade was in a permanent modified duty position in the narcotics unit during his last two years of working and although he still has that option available to him, he does not feel he is able to do that job. He requested that his former supervisor speak to that.

Captain Fairhurst described Mr. Meade's work ethic and his disabilities that he was aware of. He then described how Mr. Meade was at work and his performance.

Member Heredia stated that he has a problem with the department stating they can accommodate his restrictions and then the supervisor stating that Mr. Meade wants to be there but they thought it best for him to be at home.

Ms. Poletti stated that the duties of the position fall within the work restrictions; he would be able to sit or stand at will, so they have to look at if the duties of the position are consistent with what the work restrictions are and Dr. Das spoke to the issues of tolerance for pain, but we can't address that.

Member Brill stated that the Board is responsible for the relevancy of statements, and in the same memo it states that, "the department could accommodate him, however this would be bumping a less senior officer with accordance with the consent decree." The relevance of that statement being in the memo will not have any influence on the Board and that that was language that has not been used before and that issue has come up before.

Ms. Poletti state that there is currently a Consent Decree that has come out regarding the Tier One positions, which are the long-term modified duty positions. If the positions are full and there are people in there, there is a bumping process where a more senior officer could be placed into there. At the time the memo was prepared the positions were full, and according to the Consent Decree they have to indicate in the memo to the Board that they are full and that bumping will occur, since that time there is a vacancy. The Consent Decree mandates that they use that language at this point and time and they realize that it does not affect the decision of the Board.

Member Brill stated that for the case before concerning Mr. Marcotte the same type of memo did not provide that language and wanted to understand why there is this difference.

Ms. Poletti stated that the Consent Decree is only for officer level positions, so in the previous case it did not apply.

Member Heredia and *Ms. Poletti* discussed the bumping process and the Consent Decree.

(M.S.C. Brill/Chavez) to approve application. Motion carried 7-0-0.

Dick E. Modlin, Retired Police Officer. Request for change in status to Service-Connected Disability Retirement effective September 2, 2004; 28.56 years of service.

Retired Police Officer Modlin 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>
Jeffrey Saal, M.D.	3/13/06; 2/14/06; 8/1/05; 6/28/04; 5/25/04; 2/2/04; 11/18/03; 10/20/03; 6/4/03; 1/14/03; 12/12/02; 10/30/01; 11/27/00; 3/6/98
Mark Colton, M.D.	10/8/03
Colleen Irwin, MP	3/31/03; 2/3/03; 10/10/02; 9/10/02; 12/10/98
Edward Liu, M.D.	11/5/01; 2/17/98
Donald Pang, M.D.	3/21/00; 9/14/99
Thomas Roberts, M.D.	11/20/96; 8/4/95; 5/19/94; 1/11/94
Daniel Rubin, M.D.	6/28/93
Gary Fanton, M.D.	3/8/93; 11/2/92
Charles Bordia, M.D.	8/7/91; 7/9/91
<u>Medical Director</u>	<u>Report Date</u>
Dr. Rajiv Das	4/20/06; 4/6/06; 5/18/04; 7/15/04

Dr. Das described the injuries and work restrictions, saying that the restrictions he set are consistent with those provided by his treating physician.

Mr. Jeffers described Mr. Modlin's career and injuries. He also explained the previous modified duty position he served in until he stopped working.

Mr. Modlin described his injury, primarily to his neck. He explained that as his position become more technological it became more painful for him to perform and went onto a part-time work basis but continued to get severe headaches and just recently was declared permanent and stationary.

(M.S.C. Heredia/Chavez) to approve application. Motion carried 7-0-0.

NEW BUSINESS (Out of Order)

Action on request to determine the death of Michael Jonasson, Retired Battalion Chief, a Service-Connected Death; retired 4/1/02, died 5/4/05, 32.55 years of service.

Mrs. Jonasson was present and was represented by *Sam Swift*.

The Secretary explained that Mr. Jonasson recently passed away and that this is a request to award his survivors benefits on a service-connected death basis, as there is some relationship between his death and the condition he had.

Dr. Das discussed Mr. Jonasson's cause of death.

(M.S.C. Chavez/Heredia) to approve. Motion carried 7-0-0.

(Back on Agenda)

Deferred Vested - None

DEATH NOTIFICATIONS

Notification of the death of Velma Cardona, Retired Typist Clerk III; retired 7/16/72; died 4/14/06, and \$1,000 death benefit to estate.

(M.S.C. Brill/Chavez) to approve benefits. Motion carried 7-0-0.

Notification of the death of Peter P. DeLuca, Retired Police Officer; retired 9/15/79; died 5/7/06, and \$1,000 death benefit to estate.

Mrs. Devencenzi wanted to acknowledge the work that Pete did on behalf of the retirees. She stated that he did a wonderful job and this is a loss of a valuable person.

(M.S.C. Brill/Heredia) to approve benefits. Motion carried 7-0-0.

Notification of the death of Francis M. Devitt, Retired Sr. Fire Prevention Inspector; retired 2/1/75; died 4/16/06, and \$1,000 death benefit to estate.

(M.S.C. Brill/Heredia) to approve benefits. Motion carried 7-0-0.

Notification of the death of Clifford E. McClanahan, Active Firefighter; died 5/25/06, 26.874 years of service and survivorship benefits to spouse, Debra McClanahan.

(M.S.C. Heredia/Chavez) to approve benefits. Motion carried 7-0-0.

NEW BUSINESS

Approval for an additional contribution of \$144,131.40 to the 3201 C Street Corporation for the purpose of paying the acquisition fee for the Calais I Office Center to Kennedy Associates.

(M.S.C. Brill/Chavez) to approve item. Motion carried 7-0-0.

Approval for an additional contribution of \$101,868.60 to the 3301 C Street Corporation for the purpose of paying the acquisition fee for the Calais II Office Center to Kennedy Associates.

(M.S.C. Brill/Chavez) to approve item. Motion carried 7-0-0.

Approval to invest \$10 million in the, to be formed, 501(c)(2) corporation for the Carter Distribution Center development project to cover the costs for Fiscal year 2006-07.

(M.S.C. Heredia/Brill) to approve item. Motion carried 7-0-0.

Approval to designate Real Estate Committee Members and Board Secretary as directors of the, to be formed, title holding corporation for Carter Distribution Center development project.

(M.S.C. Heredia/Muncy) to approve item. Motion carried 7-0-0.

OLD BUSINESS / CONTINUED ITEMS

Adoption of Resolution No. 3179 to implement Board-approved changes to the Police & Fire Department Retirement Plan's Investment Policy Statement.

The Secretary stated the Board has been provided a report by staff on these issues and have been approved by the Investment Committee.

Mr. Richeda proposed that the Board consider rephrasing the Policy Statement with some modified language to the mini-tender section. He stated it is just clarifying and enhancing certain amendments and no subsequent changes.

Chair Skeen stated this item would be deferred to August.

(M.S.C. Heredia/Chavez) to approve deferral. Motion carried 7-0-0.

Approval of termination of Plan's Actuary, Mercer Human Resources Consulting.

Chair Skeen asked if there was any paperwork or supporting documentation on this item.

The Secretary stated that the City Manager had submitted a memorandum. This is a follow up to the May discussions.

Member Muncy asked if we know the actual location of the work that Mr. Hallmark has done up to this point for the police enhancements.

The Secretary stated that he has called Mr. Hallmark several times and spoke to him yesterday and he said he was unaware as to where the actual work is. The Secretary questioned him on that because a meeting was previously scheduled to occur and that meeting was deferred but thought that the work should have been completed. Also, on behalf of the Board the Secretary asked Mr. Hallmark to provide us with the work in its present state that he has completed. Mr. Hallmark said he would have to get back to staff on that.

Chair Skeen asked if there is any thing in the contract that states that they have to give to the Board any work

that they have been paid for up to this point.

Ms. Devencenzi stated that she believes there is language in the contract to that effect.

The Secretary clarified that Mr. Hallmark did not say he would not turn over documents, just that he would need to check.

Member Chavez asked if he did not know the physical location of the work.

The Secretary answered that Mr. Hallmark did not know what the level of completion was. There may be a staff member that was actually doing the work.

Member Chavez stated that his lack of knowing anything was a problem for her and wanted to know if we have paid for this work and if so the amount paid. Also, what work was received, if any prior to the April 17th meeting because she believed there was a problem with the work received from Mercer?

The Secretary stated he would need to check on payment status because typically they invoice all their hours when everything is completed. We received a preliminary report from Mercer, which was what was going to be discussed on April 17th. There was a problem with the numbers, so it was not acted upon.

Member Chavez reiterated that there was a preliminary report received and wanted to know what occurred to inform us of a mistake and who evaluated it.

The Secretary said that his understanding is that the actuaries for the POA and for the City pointed out to Mr. Hallmark errors that they thought were in the report. Mr. Hallmark then checked the representation of those actuaries calculations and found that he agreed that there was a problem with the calculations, then Mr. Hallmark called him and recommended that they defer the April 17th meeting until Mercer could go through the numbers and re-do them.

Member Chavez continued by asking of the POA and City actuaries what the mistakes were and how far along that report is.

Mr. Gurza stated that the City's actuary, John Bartell, did not actually speak to Bill Hallmark. He simply reviewed the report and placed a phone call to him leaving a detailed voicemail message, essentially asking a question and noting some issues, but he did not actually speak to him. Mr. Hallmark never responded to that message.

Mr. Tennant stated that he sent an email to retirement staff and it read, "you should also know that there appears to be a misperception at work concerning the extent of Mr. Summers [that is the POA's actuary] involvement - or better put, lack of involvement - with whatever event or events led to the cancellation of the April 17th special Board meeting to review Bill Hallmark's analysis of the police benefit. This misperception is apparent in number one, what you describe in your email as the Board's "discussion relative to the fact that it was the POA's actuary and the City's actuary who questioned Mercer's numbers in the report that was scheduled to go to the Board on April 17th" and sharing Chair Skeen's statement in his May 1st memorandum to the Board that "questions raised and information received both from the actuary retained by the POA and the actuary retained by the City had caused Mercer to review its work and to confirm that calculation errors had been made." His response is that Mr. Summer never had any sort of a dialogue with Bill Hallmark, after reviewing Mr. Hallmark's analysis the week before the meeting, Mr. summer's left a message on Mr. hallmark's voicemail on

or about April 13th saying briefly that he hoped to speak with Mr. Hallmark sometime before the meeting on April 17th because the numbers in hallmarks analysis were coming out a little differently than what Mr. Summer would have expected. Mr. Hallmark did not return Mr. Summers phone call. Mr. Tenant was in a meeting with Mr. Summer's on Friday afternoon April 14th preparing for the following Monday's meeting when they received word from the City's attorney that the meeting had been canceled. No explanation was given for the cancellation and when Mr. Hallmark finally did decide to return Mr. Summer's phone call, but not until several weeks later, at which time he left a voicemail message for Mr. Summer's saying that he was not allowed to speak with him. That is the sum of POA's involvement with this. Stating what was also in his email to staff, "In short attributing the cancellation of the April 17th meeting to the "questions raised and information received from the actuary received from the POA" requires a rather robust interpretation of a single unanswered phone message.

Member Chavez asked if there were restrictions placed on Mr. Hallmark about who he could speak to.

The Secretary stated there were. This has been a standing issue with the actuary for the Plan communicating with actuaries for the City. The POA, we have not had any involvement with in the past. The explicit direction is that the actuary not communicate unless given specific approval by the Secretary. This is an ongoing policy.

Member Chavez requested that the Secretary walk through the details of what led up to the cancellation of the April 17th meeting.

The Secretary stated he was notified by Bill hallmark on Friday, April 14th, but did not know the gravity of the situation at that time. He asked Mr. Hallmark how he found out there was a problem with the report and the response was that it was pointed out to him by the POA's actuary and John Bartell, the actuary for the City. He did not ask if they conversed but asked what they should do and Mr. Hallmark stated that they should cancel the meeting on April 17th.

Chair Skeen stated that he spoke with Mr. Hallmark prior to the Secretary speaking with him. Mr. Hallmark called stating the meeting needed to be cancelled and giving several reasons.

Member Chavez asked about any other outstanding reports that Mercer was working on beside the police benefit and GASB 43/45.

Member Heredia stated that Mercer had the surviving child, the buyback of time away from the job, and domestic partners.

Member Chavez stated she thought surviving child was completed.

The Secretary said those were completed. He recommended that they continue with the contribution rates that were provided to them based on the 2003 work until we do the study for 2007.

Member Chavez said she was concerned because she doesn't know what state the work is in, but there was a report that was done. She wants to know if there was enough work done that could be finished, or is there another actuary on retainer that can take that work that has already been done, take it and modify it and bring it to the Board.

The Secretary stated that we don't know that information. The report that was done was the one submitted for the April 17th meeting and that was the one that contained the miscalculations that POA's actuary and the City's

actuary informed Mr. Hallmark of via voicemail. There is not another actuary on retainer. We do have the Federated actuary, which we are getting proposals from to do certain work for this Plan, but we don't have a retainer with GRS. He has attempted and will continue to attempt to find out from Bill Hallmark/Mercer where they are in the completion of the new benefit piece and try to get that. He has called Mr. Hallmark several times and did not get a call back at all. He called Mr. Hallmark yesterday and spoke to him and asked why he has not gotten back to him. The message that was left on Mr. Hallmark's voicemail two weeks ago was detailed as to exactly what we wanted to know about the status of works.

Member Brill wanted to know where the work by Mercer is at, what they were paid because he was prepared on Friday to go into a meeting on Monday with a report to us and discussion for us. He would like to see all three actuary reports side by side regardless of errors to see the why's and what if's. He does not want to continue to pay Mercer if he is not going to turn over the work for the Board. The memo from les White he felt was inappropriate and last minute.

Mr. Gurza stated that he is the representative for the City Manager today. He stated that he was not going to write a memo until he saw the agenda for this item and there was elevated concern. Given the circumstances the memo went out as soon as practical.

Member Cortese wanted to speak about the contractual requirements of Mercer, and asked if legal council will look at what the standards are in the industry from both a professional side and a legal side.

Ms. Devencenzi stated that she believes that our contract has the standard language in it that the work product is ours, but they do not have to turn over any proprietary things, but the documents themselves are ours. If they are concerned about errors in the calculation they could put a cover memo on the report saying whatever they want to say about it but they are still obligated to turn it over to us.

Mr. Richeda said that he would recommend that the Board direct Ms. Devencenzi and himself to contact Mr. Hallmark, first by phone, then email, and then a letter. He would be very surprised if they refused to turn over the documents, he thinks they just are not getting to it.

The Secretary stated that they hold off on getting legal involved now because then they get their legal involved. He wants to work with Mr. Hallmark to get what it is and if that doesn't happen then to come back and involve legal.

Ms. Devencenzi agreed with the Secretary.

Member Cortese also pointed out a paradox issue is that he heard last month during the discussions about Mercer, is that the Board indicated a strong lack of confidence in Mercer under these circumstances. It becomes a conflict to use Mercer's work as a basis for someone else to use. He would be really surprised if any professional firm that comes in would want to use this report as a basis for their work even if they felt it wasn't flawed because it opens them up to liability. He doesn't think it is going to get us much to have the work other than it's ours and we want it.

Member Muncy asked how long Mercer has been the Boards actuary. He suggested that this item be continued until August so that we can get the work due to us.

The Secretary responded that Mercer has been with us 10 years.

Member Heredia said that he understands Les White's concern sending the memo. It is the same concern all of the Board members have, as they just retired a dozen police officers that are due a benefit that we have unanswered questions about. The issue is how do we fund the plan and how do we do it correctly. Some actuary someplace saw this report and immediately saw some mistakes. Mercer assured us that when they did the report, they would have the primary actuary do it, then another actuary would look at it, then it is reviewed by their peers, and it must have missed a couple of people. When there is a work product that badly flawed, why would I want to go forward with somebody who can't do that? He feels badly that this is causing some stress on members of the POA, but it bothers him that union brothers and sisters are due a benefit that they don't know where it's coming from. One thing that Mercer was asked to do was to remain objective, which is clearly why they don't want the actuary talking to a bunch of different people about stuff. Terminate them, move forward and figure out how to provide the benefit due.

Member Lisenbee stated that he felt that the memo from Les White was saying what he needed to say. It was very clear that the Board has lost confidence in the actuary, so any work that Mercer brought in here would be more about Mercer than the results. It would be a waste of time to continue with them. He is concerned about the length of time it will take to get a new actuary on board. Is there any kind of interim step or a way to shorten the process to get the money flowing in the Plan?

Member Heredia wanted to mention that there is a report that the City's actuary completed, so we haven't seen that. We talked a few years ago about having a study every year, but not sure he wants to go there now but it may help to look Bartel's report and then having a new actuary do a evaluation for next year that picks up all the pieces, which may bridge things.

Ms. Devencenzi said that the City's actuary report was attached to the memo that went to Council when the benefit was approved and it can be obtained from the internet. It could be on the agenda for August and the Board could use those numbers as a stop gap measure pending getting another actuary report, which may involve adjusting the rates later. That is certainly something within your privy to do. If you wanted to hold off until August to see what information can be obtained from the RFI sent to other actuaries, but there are options within your jurisdiction and obligations as a fiduciary. She understands the concern that have been raised with having a benefit in place where the funding is not immediately going in but don't think however that a couple months delay in starting to put the contributions in would be in any way a breach of your fiduciary duty to keep the Plan actuarially sound. Also, to concur with Ed on letting him try to get the information from Mercer before involving legal.

Mr. Richeda wanted to comment on the Boards suggestion of using Mr. Bartel's report to set contribution rates. He assumes that the board is aware there may have to be adjustments to this rate, since there is going to have to be an adjustment anyway why set a rate at all. The Board would be using an actuary that they do not know, have not investigated, and there has been no due diligence process with. In either case you are going to have to make an adjustment, whether waiting for a new actuary or using Bartel's report. Why not just wait and go through a process of selecting a person you are going to trust and from a fiduciary perspective to have some guidance on the process of making this adjustment. There will be a slight unfunded liability accrued by waiting to fund this benefit.

Mr. Gurza wanted to point out that on May 9th the City approved the ordinance that made the plan change for the POA's enhanced benefit. We hoped at that time to be able to attach the Boards actuarial report, since that wasn't available we did attach the City's actuary report. He did want to point out that since he is not the Boards actuary he does not have access to all of the data that the Boards actuary would, most importantly that he used 2003 evaluation data.

Member Heredia points out that Bartell said Mercer was wrong and he was using 2003 data and Mercer was using 2005 data.

Mr. Gurza states that he doesn't feel that Mr. Bartell said that Mercer was wrong but there were some questions he had about it and that similar questions were coming from the POA's actuary knowing the 2005 difference. Mr. Bartell doesn't think that 2005 data is going to drastically change the cost estimates but still it is not the same exact number, it will vary to some degree.

Member Brill stated that he was prepared to make a motion to leave this matter in Ed's hands to get the information then afterwards, to involve legal if not resolved before two months.

(M.S.C. Brill /Heredia) with amendment to the motion to allow the Secretary to follow up with Mercer to produce and turn over all the work done for the Plan within two weeks. Then to proceed with further action should Mercer fail to comply. Motion carried 7-0-0.

(M.S.C. Heredia/Brill) to approve the termination of Plan's actuary, Mercer Human Resources Consulting. Motion carried 7-0-0.

Member Chavez asked if there was any problem with using the City's actuary report as an interim.

Ms. Devencenzi said she didn't believe there is a problem in doing so. She said there is an estimate that is based on 2003 data. Down the road the Board knows there would be an adjustment one way or the other, if the rates or too low then there would be an unfunded liability, if you don't put anything in there will be an unfunded liability, so either way there is going to be an unfunded liability. There would be an adjustment unless there is a Plan amendment to share the unfunded liability between the employee's and the City, it would be a City liability that the City would have to pick up somewhere down the road.

Member Heredia stated that unless the employee rates are set too high, that part is not coming back to the cops, that is going back to the City.

Ms. Devencenzi stated that if it turns out that those rates are too high, then they would need to do an adjustment on the rate.

The Secretary said that the Board does not know John Bartell, they have not seen his work, they don't know his methodology, they don't know how he arrived at the contribution rate (which he does not dispute) but he feels that as fiduciaries they need to at least get the report, talk to John, figure out if he is using the same methodology that would normally be used by this Plan, and not just take the rate estimate and put it in.

Mr. Gurza wanted to say that he thinks that Mr. Bartel would want to do a full report, if the Board was going to use his estimate, using current data. The report provided to them was for the City not for the Board to set rates on, but to come up with an estimate. He used normal actuarial principles and methodology. Also, regarding the employee contribution rates that was discussed, in anticipating that it didn't look like the contribution rates would be set at the time the benefit went into effect, the City talked to the POA and they have an agreement that the unfunded liability issue would be handled by rolling in whatever wasn't paid by employees into the ultimate contribution. It does take a Plan amendment, as mention by Ms. Devencenzi. The City has an agreement with the POA to recover the employee contributions that will not have been made.

Member Heredia said that there will not be a contribution rate adopted for July 1st, so whatever is not

collected until we do adopt a contribution rate the employee's portion of unfunded liability will be picked up by the police officers.

Mr. Gurza stated that is correct.

Mr. Richeda expressed that going the way of the Bartell report is very complex; first he has to do a full report, which you won't hear until August. Then you will set a rate that will have its own unfunded liability. Then that rate may be too high/low because you will have to have the work replicated by your eventual successor. The Board may wish to consider not going through all that process and just waiting, we are talking about setting a rate possibly in August/September verses setting a rate perhaps in December/January.

The Secretary added by saying that the Board does not have a contract with John Bartell, so who will pay him. And if the City pays him, then is the Board now turning its actuarial responsibility over to the City. There are questions that need to be answered before we say lets just take John Bartels rate to put in.

Member Chavez would like to have some redundancy to protect the Board. So, she is suggesting going down two paths. To look at John Bartell doing the work they need to do concurrently, while we are bringing in someone else.

The Secretary said that if we are talking about an estimated rate, why not put in the rate from Mercer and act on that in August. He said it would be the best estimate.

Member Cortese said why is there a hurry to get an estimate anyway since waiting 4-6 months will not bankrupt the Plan. He would like the process done as promptly as possible, but thinks we should get an actuary on for the long haul.

Mr. Gurza stated that from the City's perspective they would like to start paying for the enhanced benefit as quickly as possible.

Mr. Tennant stated that from the POA's perspective it is simply a matter of concern as to whether the benefits are going to be paid.

The Secretary stated that the Plan has already been modified. The checks will be paid. The ordinance was passed on May 9th.

Mr. Gurza said the Board was provided a draft ordinance and they had 60 days to review it. That 60 day period ran its course then it was agendized as it normally is on a council agenda. And it was passed.

Ms. Devencenzi stated that at the last Board meeting she believes it was mentioned that the ordinance was going to Council on the 9th of May.

Member Heredia said that he feels there should have been more information provided to the Board. Member Brill said that there is already a RFI out to get information back for a new actuary. He would like to know a time frame.

The Secretary stated that around 4 month's timeframe to do the process. He said once we find a replacement, there is the contract period, the actuary getting familiar with what the Board wants, and then doing the study.

Mr. Richeda said that once the new actuary is on board, and then they will have to repeat the previous evaluation to determine the accuracy and compare it with the prior study and if there are problems to resolve that. Then after that the actuary would be in a position to come up with a complex review of anything, including deciding on new contribution rates for this enhancement.

Member Chavez wants to know if the City Manager sent out anything to the POA explaining if the benefits would be paid. If, so when.

Mr. Gurza said that was a discussion that happened yesterday, and that they will be communicating to police officers that the ordinance was passed, and the Plan has been amended, so the benefit will be effective for anybody that retires on or after July 1st. They will be sending it out next week because they had to wait on the second reading of the ordinance.

Mr. Tennant said that he wants to be able to tell the police officers they will be paid.

The Secretary stated that they can put a letter out with their pension checks on August 1, so they know, as requested by Member Chavez.

Cancellation of meeting scheduled on June 8, 2006.

Authorization to forward redefinition of surviving child ordinance to new actuary for determination of final costing, and notification of draft letter of new benefit to be sent to current retirees.

The Secretary stated this is to update the costing. He recommends using the rates calculated in 2002 to set in August until we get a new actuary.

(M.S.C. Heredia/Chavez) to approve item. Motion carried 7-0-0.

STANDING COMMITTEE REPORTS/RECOMMENDATIONS

Investment Committee (Skeen/Heredia/Muncy)

■ Approval of the Investment Committee's 2006-07 Work Plan.

(M.S.C. Heredia/Brill) to approve item. Motion carried 7-0-0.

Real Estate Committee (Skeen/Heredia/Muncy – Alt: Vacant)

Investment Committee of the Whole (Full Board) – last meeting 17 May 2006.

APPROVAL OF MINUTES

Monthly board meeting held 4 May 2006.

(M.S.C. Brill/Heredia) to approve item. Motion carried 7-0-0.

PENDING ACTIONS LIST

Updated list as of 23 May 2006.

Member Heredia inquired about the status of domestic partners being done and the ordinance is effective June 15th, and the post retirement, which is effective June 15th but it is retro so it goes back to April.

Chair Skeen stated that the actuarial search should be added.
(M.S.C. Heredia/Brill) to approve item. Motion carried 6-0-1 (Chavez left).

BENEFITS REVIEW – none.

CONSENT CALENDAR

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

Informational copy of RFI issued for new actuary.

Member Lisenbee stated that the letter reads that the next evaluation is planned for year ending 2007 for implementation in 2008.

The Secretary said that the studies are done on an odd year for implementation on the even year.

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

PROPOSED AGENDA ITEMS

Member Heredia requested that the process of adopting ordinances needs to be put into a strict policy on how they are requested, the drafting of the ordinance, the actuarial report, and implementation be put together by staff.

PUBLIC COMMENTS

The Secretary mentioned that he spoke to Avery and the second recruiting period closed on April 30th. There are a total of 10 candidates and they would be providing a list of interviewees on May 16, which he has not heard back from them. Avery has until the end of this week to get back to him otherwise on Monday he will be calling them. A committee will be formed to interview the candidates with the Chair of this Board, the Chair of the Federated Board, and himself.

Chair Skeen also inquired about Member Heredia's request of Avery to provide in their report the complications they encountered in trying to recruit candidates for this position.

Jim Spence wanted to talk about the police disabilities, the Board has been put in a difficult position and he appreciates the fact that today the Board was able to listen to the individual that had been working in the job that the City said met his requirements and the difficulty that that presented

EDUCATION & TRAINING

Notification of IFEBP's Advanced Investments Management Course to be held at the Wharton School, University of Pennsylvania, September 25 through 28, 2006.

ADJOURNMENT

There being no further business, at 11:10 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