

# POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

## Minutes of the Board Meeting

6.1a

Thursday

SAN JOSÉ, CALIFORNIA

April 7, 2011

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met on Thursday, April 7, 2011 in regular session at City Hall in the Wing Meeting Rooms 118-119, 200 East Santa Clara Street San José, California 95113. Chair David Bacigalupi called the meeting to order at 8:35 a.m.

### BOARD MEMBERS

David Bacigalupi, Chair - Present  
Conrad Taylor, Vice Chair - Present  
Sean Bill, Trustee - Present  
Michael Flaherman, Trustee - Arrived 8:37a.m.  
Sean Kaldor, Trustee - Present  
Damon Krytzer, Trustee - Present  
Vincent Sunzeri, Trustee - Present  
Richard Santos, Trustee - Present  
Vacant, Trustee

### DIRECTOR RETIREMENT SERVICE

#### BOARD SECRETARY

Russell U. Crosby - Present

#### COUNCIL LIAISON

Pete Constant - Not Present

### ALSO PRESENT:

Mollie Dent	-City Attorney	Jay Wendling	-Retired Police & Fire
Russell Richeda	-Conflicts Counsel	Lt. Bustillos	-SJPD
Carmen Racy-Choy	-Staff	Sandra Holloway	-SJPD
Ali Amiry	-Staff	Jeff Stiles	-SJFD
Aracely Rodriguez	-OER	Jim Jeffers	-Attorney
Ron Kumar	-Staff	Veronica Niebla	-Staff
Rajiv Das, M.D.	-Employee Health Services	Sonia Morales	-Staff
Donna Busse	-Staff	Mary Dariano	-Staff
Michael Moehle	-Staff		

### ORDERS OF THE DAY

- a. Item 3.1 to be heard after after item 4.2
- b. Item 3.7 - Additional hand outs were provided that were not included in the packet.
- c. Item 3.1 - An updated version (4-6-11) of the presentation was provided as hand outs.

### 1. RETIREMENTS

#### 1.1 Service

- a. Evan S. Bloom, Fire Captain, Fire Department, effective March 19, 2011; 25.19\* years of service. **Approved.** (M.S.C. - Santos/Kaldor, 7-0-1)
- b. Matthew F. Elvander, Police Sergeant, Police Department, effective May 28, 2011; 28.26\* years of service. (With reciprocity) **Approved.** (M.S.C. - Taylor/Santos, 7-0-1)
- c. Carlos A. Miller, Fire Captain, Fire Department, effective May 28, 2011; 30.13\* years of service. **Approved.** (M.S.C. - Santos/Kaldor, 7-0-1)

\*Estimated

PPF 5-5-11

- d. **Thomas P. Navin**, Police Sergeant, Police Department, effective May 28, 2011; 25.03\* years of service. **Approved. (M.S.C. – Taylor/Kaldor, 7-0-1)**
- e. **Michael Piscitello Jr.**, Police Officer, Police Department; effective May 14, 2011; 24.83\* years of service. (With reciprocity) **Approved. (M.S.C. – Taylor/Kaldor, 7-0-1)**
- f. **Marc D. Remington**, Police Sergeant, Police Department; effective April 16, 2011; 24.57\* years of service. (SCD pending) **Approved. (M.S.C. – Taylor/Santos, 7-0-1)**
- g. **Kenneth G. Tanaka**, Police Lieutenant, Police Department; effective May 14, 2011; 27.88\* years of service. **Approved. (M.S.C. – Taylor/Santos, 7-0-1)**

## 1.2 **Change in Status**

- a. **Steven D. Barnes**, Police Sergeant, Police Department. Request for a change of status from a Service Retirement to a Service-Connected Disability, effective January 24, 2009; 25.96 years of service.

Attorney Jim Jeffers requested a continuance in order to have time to receive additional medical reports. This hearing was deferred to the May Board Meeting.

## 2. **DEATH NOTIFICATIONS (Moment of Silence) Note and File**

- 2.1 Notification of the death of **Kevin G. MacPhee**, Fire Engineer, retired 07/07/92, died 02/28/11. Survivorship benefits to Barbara MacPhee, spouse.
- 2.2 Notification of the death of **William S. Bailey**, Police Sergeant, retired 04/05/1987, died 03/20/2011. No survivorship benefits.

## 3. **NEW BUSINESS**

- 3.1 Staff presentation on Plan's Equity Investment Structure.

This item was deferred to the May 5, 2011 Board meeting.

- 3.2 Discussion and possible action regarding the 50 mile radius residential requirement for Board of Administration Trustees and the definition of the Council Liaison position.
  - a. Memorandum to Board from City Attorney's Office and draft ordinance related to Council representative to Retirement Boards
  - b. Ordinance No. 28900 related to 50 mile radius residency requirement for Board members.
  - c. Letter from Chair David Bacigalupi to Mayor and City Council dated March 16, 2011.
  - d. Report to City Council dated June 23, 2009 regarding the Fiduciary Governance Models of the City's Retirement Plans and report by Cortex Applied Research, Inc. regarding the findings on the Plans' governance models.

Chair Bacigalupi advised that there were additional documents that should be included in the review of this subject: a letter from the Retirees' Association regarding discussions between and agreements with the City; and, grievance letters from the Police Officers Association and Local 230. Further, the City Council requested review by the entire Board after the full Board has been appointed.

The Board held a discussion about factors surrounding the 50 mile radius residency requirement.

The Board the discussed the position of Council Liaison as defined by the current City Policy and noted differences with the Council's directions regarding the addition of a non-voting, non-fiduciary Board member.

Attorney Dent advised that the City Council has deferred this item to May 2011.

Trustee Sunzeri made a motion to draft a letter to City Council to move forward with the Council Liaison position to the Police and Fire Department Retirement Board as defined by the current City Council policy and describing why the proposed change to a Council Liaison as a non-voting, non-fiduciary member is not appropriate. **Approved. (M.S.C. – Sunzeri/Bill, 7-0-1)**

**3.3 Update and status of 115 Retiree Health Trust.**

Senior Deputy City Attorney Dent reported that she would meet with the Office of Employee Relations and Retirement Services staff to draft an ordinance in May 2011 with the goal of having the new trusts in place by June 2011.

**3.4 Discussion and action regarding Ice Miller contract amendments increasing fees by \$25,000 to a total of \$85,000. **Approved. (M.S.C. – Kaldor/Taylor – 7-0-1)****

**3.5 Approval for Secretary to negotiate and execute the fourth amendment to the agreement with The Segal Company to increase the actuarial budget for 2010/2011 by \$25,000 for a total not-to-exceed amount of \$930,000 for actuarial services for the period 2006 through fiscal year 2010/2011. **Approved. (M.S.C. – Kaldor/Taylor – 7-0-1)****

**3.6 Approval of Lifetime Reduced Retirement Monthly Payment Option to be paid to **Eileen Zamora**, ex-spouse of Police Officer Gilbert Zamora, to be effective February 1, 2011 under Part 17, Section 3.36.3600 of the San Jose Municipal Code. **Approved. (M.S.C. – Santos/Taylor – 7-0-1)****

**3.7 Discussion and direction to staff concerning negative crediting of UAAL in the calculation of Annual Required Contributions (ARC) as requested by Trustee Kaldor in a memo dated March 28, 2011.**

The Board directed staff to write a letter to the Mayor and City Council and forward research materials to them regarding the degree to which the negative crediting of UAAL impacted the calculation of the ARC and contributed to the current funding status of the plan. **(M.S.C. – Kaldor/Santos, 7-0-1)**

**3.8 Notification of Board decision regarding the recommendation to the City Council for the 9<sup>th</sup> Board member.**

Chair Bacigalupi announced the unanimous selection of Andrew Lanza as the Board's recommendation to the City Council for appointment as the ninth Trustee for Police and Fire Department Retirement Plan.

**4. OLD BUSINESS/CONTINUED-DEFERRED ITEMS**

**4.1 Discussion and possible action regarding Supplemental Retirement Benefit Reserve (SRBR):  
(Deferred from March 3, 2011)**

- a. Letter from Moscone Emblidge, and Slater LLP representing the Association of Retired San Jose Police Officers and Fire Fighters regarding the Board's Administration of the Supplemental Retiree Benefit Reserve. *(Deferred from January 6, 2011 meeting)*
- b. Letter from SJPOA re: Demand to Meet and Confer and Potential Grievance Over City's Unilateral Suspension of SRBR Payment and Retirement Board's Failure to Transfer Requisite "Excess Earnings" into SRBR. *(Deferred from January 6, 2011 meeting)*
- c. Letter from Jay Wendling President of the Association of Retired San Jose Police Officers and Fire Fighters regarding SRBR.
- d. Background Information on SRBR
  - i. Memorandum from City Attorney Richard Doyle to City Council dated November 5, 2010 concerning Proposed Ordinance and Resolution Related to Suspension of Distribution of SRBR Benefit payment
  - ii. Legal Opinion from Conflicts Counsel Russ Richeda dated 11/22/10
  - iii. Legal Opinion dated November 23, 2010 for Senior Deputy City Attorney Mollie Dent
  - iv. SRBR Suspension Memos from: Alex Gurza, Office of Employee Relations, dated October 29, 2010; City Clerk Lee Price, dated October 21, 2010; Mayor Chuck Reed, dated October 13, 2010; City Manager Debra Figone, dated 10/22/10; Resolution No. 71870; and Resolution No. 70822
  - v. Staff memo dated 12/13/10, letter from Segal dated 10/28/10, staff memo dated 11/23/10, and Resolution No. 3683 for Transfer of SRBR funds

The Trustees heard a synopsis of the history of the SRBR. The Board was advised that the status of the SRBR is under discussion between the Office of Employee Relations and the City unions.

A motion was made for the Board to act if the bargaining parties cannot reach an agreement. At that time the Board should recommend a solution to City Council, after considering input from the bargaining parties. **Approved. (M.S.C. Kaldor/Santos, 7-0-1)**

**4.2** Consider and discuss additional information regarding disability determination process. *(Continued from January 6, 2011 meeting) (Item deferred from March 3, 2011)*

- a. Updated information from the City Attorney's Office.
- b. Presentation regarding role of Medical Director.  
Dr. Rajiv Das presented a report to the Board.
- c. Letter from Sam Swift, Attorney, dated March 23, 2011.
- d. Staff memo dated January 25, 2011 regarding Disability Process. *(Deferred from March 3, 2011)*

A motion was made to defer this item to May 2011. **Approved. (M.S.C. – Bill/Sunzeri, 6-0-2)**

**5. STANDING COMMITTEE REPORTS/RECOMMENDATIONS - None**

**6. CONSENT CALENDAR (Items # 6.1 through 6.6)**

Item 6.6c was pulled from the Consent Calendar at the request of Sean Kaldor. A motion was made to approve the balance of the Consent Calendar. **Approved. (M.S.C. Kaldor/Bill, 6-0-2)**

**6.1 Approval of Minutes**

\*Estimated

- a. Monthly Board meeting held on March 3, 2011.
- b. Corrected Minutes from February 3, 2011 and February 18, 2011.

**6.2 Approval of Travel/Conference Attendance**

- a. Sean Bill - CALAPRS, General Assembly 2011, Monterey, CA, March 5-8, 2011.
- b. Conrad Taylor - CAPP Training, June 14-15 and 16 and 17, Gleacher Center-University of Chicago, IL
- c. Sean Kaldor - IFEBP, "Foundations for Trustees 1," San Diego, CA – November 20-21, 2010. **(Cancelled-Canadian Trustee Event)**
  - IFEBP, "Trustees and Administrators Institutes, June 13-15, 2011 San Francisco, CA – **(Cancelled)**
- d. David Bacigalupi - IFEBP, "56<sup>th</sup> US Annual Employees Benefits Conference," Honolulu, HI November 14-17, 2010. **(Cancelled)**
- e. Vincent Sunzeri - IFEBP, Trustees and Administrators Institutes – New Trustees, Las Vegas, NV – Monday, June 13-15, 2011.
- f. May Cheung - CALAPRS, Information Technology Roundtable, Burbank, CA - Friday, April 8, 2011.
- g. Ali Amiry - Institutional Investor Institute Hedge Fund Institutional Forum, Advisory Board, Rancho Bernardo Inn, San Diego, CA, April 5-8, 2011.
  - Milken Institute, Los Angeles, CA, May 1-4, 2011.

**6.3 Approval of Monthly Expenses**

- a. Plan Expenses for February 2011.

**6.4 Return of Contributions**

- a. Voluntary
- b. Involuntary

**6.5 Investments**

- a. Adoption of Resolution 3700, for the period of February 1, 2011 through February 28, 2011.

**6.6 Communication/Information**

- a. Benefits Review Forum held on February 2011.
- b. CALAPRS Trustees' Roundtable Educational Travel Report – By Vincent Sunzeri
- c. Report on Accounting for Plan occupied/owned building.

Item 6.6c was considered separately from the Consent Calendar at the request of Trustee Kaldor who asked for clarification. **Approved. (M.S.C. Kaldor/Bill, 6-0-2)**

- d. Benefits Review Forum for March 2011 – Cancelled
- e. Memo from Russ Richeda, Saltzman & Johnson regarding Little Hoover Commission Report on Public Pension, dated March 28, 2011.

\*Estimated

- f. Memo from Russ Richeda, Saltzman & Johnson regarding CalPERS Special Review, dated March 24, 2011.
- g. Report on Investment as of February 28, 2011.

Trustee Bill stated he would like to see item 6.6g, Report on Investments, at the beginning of the agenda and on top of the agenda packet and Trustee Kaldor asked to see the report expanded to include six month and twelve month data.

## **7. EDUCATION & TRAINING Note and File**

### **7.1 Notification of Pensions & Investments and Towers Watson Training**

- a. Pension Risk Management in a New Era Conference, San Francisco, CA, June 7, 2011.

### **7.2 Notification of CalAPRS' Trustees Round Table Note and File**

- a. Trustees' Round Table, Los Angeles Marriott Burbank Airport, Burbank, CA, 2500 Hollywood Way, June 3, 2011.

### **7.3 Notification of IFEBP Training Note and File**

- a. Investments Institute, Las Vegas, NV – Monday, April 11, 2011 thru Wednesday, April 13, 2011.
- b. Wharton Portfolio Concepts and Management, Philadelphia, PA – Monday, May 23, 2011 thru Thursday, May 26, 2011.
- c. Trustees and Administrators Institutes – New Trustees, The Mirage, Las Vegas NV, Monday, June 13, 2011 thru Wednesday, June 15, 2011.
- d. Certificate of Achievement in Public Plan Policy (CAPPP) – Employee Pensions – **Part I**, The University of Chicago, Gleacher Center, Chicago, IL - Monday, June 14-15, 2011.
- e. CAPPP – Employee Health – **Part I**, The University of Chicago, Gleacher Center, Chicago, IL – Monday, June 14-15, 2011.
- f. CAPPP – Employee Pensions – **Part II**, The University of Chicago, Gleacher Center, Chicago, IL – Wednesday, June 16-17, 2011.
- g. CAPPP – Employee Health – **Part II**, The University of Chicago, Gleacher Center, Chicago, IL - Wednesday, June 16-17, 2011.
- h. International Investing and Emerging Markets, Wharton West, San Francisco, CA, Monday, July 25, 2011 through Wednesday, July 27, 2011.

### **7.4 Notification of SACRS Training Note and File**

- a. State Association of County Retirement System (SACRS), Public Pension Investment Management Program, UC Berkeley, Monday, July 11-13, 2011.

## **PROPOSED AGENDA ITEMS**

1. Include the Watch list for investment mangers
2. Discuss Board Retreat
3. Discuss Electronic Agendas
4. Discuss Trustee fiduciary insurance non-recourse fees
5. Review and discuss Cortex Report
6. Discuss Quorum Rules
7. Discuss status of FLSA/ overtime pay issues

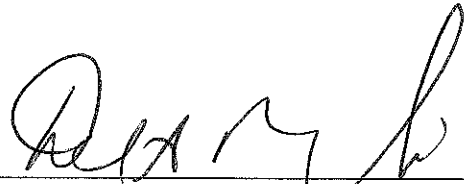
\*Estimated

8. Discuss Payroll Audit
9. Discuss formation of a Sub Committee to review the Disability Determination Process
10. Discuss formation of an Audit Committee
11. Staff Presentation on Plan's Equity Investment
12. Education on Actuarial Valuations

**PUBLIC COMMENTS**

**ADJOURNMENT**

1:06 p.m.



**DAVID BACIGALUPI, CHAIR**  
BOARD OF ADMINISTRATION

**ATTEST:**



**RUSSELL U. CROSBY**  
DIRECTOR, RETIREMENT SERVICES  
SECRETARY, BOARD OF ADMINISTRATION

\*Estimated