

# POLICE AND FIRE RETIREMENT PLAN

## Minutes of the Board Meeting

**THURSDAY**

**SAN JOSÉ, CALIFORNIA**

**March 1, 2007**

### CALL TO ORDER

The Board of Administration of the Police and Fire Department Retirement Plan met at 8:37 a.m., on Thursday, March 1, 2007, 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**

**BRET MUNCY**

**DAVID CORTESE**

**FORREST WILLIAMS**

**BILL BRILL**

**Fire Employee Representative**

**Retiree Representative**

**Police Employee Representative**

**Council Representative**

**Council Representative**

**Trustee**

### ALSO PRESENT:

<b>Edward F. Overton</b>	<b>-SECRETARY / DIRECTOR</b>	Tom Webster	-Staff
Russ Richeda	-Saltzman & Johnson	Susan Devencenzi	-City Attorney
Roger Pickler	-Staff	Debbi Warkentin	-Staff
Tamasha Johnson	-Staff	Udaya Rajbhandari	- "
Donna Busse	- "	Ron Kumar	- "
Amanda Ramos	-Staff	Paul Angelo	-Segal
Carol Bermillo	-Staff	Andy Yeung	-Segal
Judy Powell	-Staff	Mike Pribula	-Staff
Maria Loera	-Staff	Jim Jeffers	-Attorney
Susan Perriera	- "	Rich Fong	-SJPD
Martin Hogan	-SJPOA	Linda Charfauros	-SJFD
Alex Gurza	-OER	James Giambrone, Jr.	-Retired SJPD
Sandra Holloway	-SJPD	Dale Morgan	-SJPD
A. Rosingana	-AORP+FA	Randy Sekany	-L230
Colleen Hy	-Staff	Thomas J. Boyle	-Attorney
Matt Stansk	-Attorney	C. Taylor	-POA
Linda Hurley	-Macias Gini	Jeff Ricketts	-POA
Allan Dye	-POA	Bob Lopez	-POA
John Tennant	-POA	Bob St. Amoir	-POA
Toni Johnson	-Staff	Aracely Rodriguez	OER
George Rios	-CAO		

## REGULAR SESSION

### ORDERS OF THE DAY

The Chair called the meeting to order at 8:41 a.m., and stated that Item 3a has been deferred to May at the request of the applicant's attorney. Also, the Real Estate Committee will be meeting on March 15, 2007.

### RETIREMENTS

**Service** - None

**Disabilities** - None

**Change in Status**

**Manuel P. Alarcon**, Retired Fire Chief. Request for change to Service-Connected Disability Retirement effective January 6, 2003; 26.72 years of service.

**Retired Fire Chief Alarcon** 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>
John Colman	1/6/06; 3/21/06; 8/5/06; 10/23/06
Oscar Abeliuk	11/22/03; 4/19/04; 2/19/05
Jonathan Ng	9/17/03; 1/13/04; 2/20/04
Allan Rosenthal	1/9/04
Terence Delaney	7/15/04
William Breall	10/3/03
Arthur Messenger	8/11/03
<u>Board Doctor</u>	<u>Report Date</u>
Rajiv Das	7/8/04; 2/1/07

*Dr. Das* said that he has problems with his neck, lower back, right knee; but the primary problem seems to be the knee. The restrictions he provided are based on those assigned by his treating physician.

*Mr. Jeffers* stated that his client is limited to walking with a cane and he must wear a brace all the time. He is unable to work in any capacity.

**Member Muncy** asked why he was able to work full duty on January 25<sup>th</sup> but then the next day he couldn't perform his duties.

**Member Heredia** also said that in looking at the restrictions and the Fire Chief duties and cannot reconcile with why he cannot work in that capacity.

*Mr. Jeffers* said that he was originally scheduled for the August 2004 meeting to request a disability retirement but then deferred at that time per the request of the analyst because they were unable to get a memo from the City Manager. Then the application went off calendar and Mr. Alarcon had major surgery and has been out until now, where we are asking the Board for disability retirement.

**Chair Skeen** said that this item will be continued in 60 days, so that they could provide the Board with additional medicals and some form of a memorandum from the City Manager's office.

**Thomas McClusky**, Retired Fire Engineer. Request for change to Service-Connected Disability Retirement effective January 15, 2005; 29.90 years of service.

**Retired Fire Engineer** 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	1/29/04; 8/19/04; 11/22/04; 6/29/05; 10/16/06
Ronald Fujimoto	5/27/05
Kenneth Blumenfeld	5/6/04
John Hage	11/7/04

Mark Culton	4/14/04
John Rennick	3/8/04
Thomas Bleoink	7/21/97
Robert Gamburd	12/8/95; 1/8/96
<u>Board Doctor</u>	<u>Report Date</u>
Rajiv Das	1/23/07

*Dr. Das* said that the injuries are to multiple body parts, but primarily his lower back. The restrictions are based on those provided by Dr. Fujimoto's.

*Mr. Swift* said that he was on modified duty when he returned. The significant injuries began 91', 94', and 01' and then he struggled in 04', when he had five injuries that took him off the line. The department says they have no modified duty for him.

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

### **Deferred Vested**

***Timothy R. Halpin***, Sergeant, Police Department. Request for deferred vested benefits effective March 28, 2007; 19.32 years of service.

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

### **DEATH NOTIFICATIONS**

**Notification of the death of Elizabeth Michaelson, Retired Sergeant; retired 1/6/88, died 1/24/07. No survivorship benefits to be paid.**

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

### **NEW BUSINESS**

**Approval of staff request to purchase audio equipment for the Board's Conference Room for a cost not to exceed \$16,097.56 (To be shared 50/50 with Federated Retirement System).**

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

### **Discussion on City's Declaration and Disclosure of Conflict of Interest Policy.**

**The Secretary** stated that this item has been provided by the City Attorney and is effective for all Boards, Commissions, etc. It expands on all coverage's you already have, so the City is going beyond State Law. He recommends that we adopt our own recommendations for a disclosure policy.

**Member Heredia** stated that he would like staff to bring a policy back to adopt as their own.

### **OLD BUSINESS / CONTINUED ITEMS**

**Acceptance of Segal's actuarial study on proposed benefit enhancements as Authorization for Towers Perrin, Board's out-side consultant, to discuss findings from**

the recently released disability study to the Mercury News.

*Mr. Richeda* stated that he was contacted by Rita Holder that the Mercury News had talked to Towers Perrin about the report and wanted to ask questions on it, so they were transferred to the Towers Perrin New York office because they have a strict policy on not communicating with the press, unless the client approves it. That is how he was contacted by the Towers Perrin office to request permission, which he has passed this request to the Board.

(M.S.C. Heredia/Muncy) approved item with a recommendation that Mr. Richeda be a part of that communication. Motion carried 5-0-2.

**Acceptance of Segal's Revised Report on Actuarial Valuation of Retirement Health Benefits as of 30 June 2006 (GASB 43/45) and authorization to forward on to City Administration.**

**The Secretary** stated that the report is in the packet and the representatives from Segal are present for questions.

**Chair Skeen** asked about the liaison on the committee because it was Lisenbee, so with his retiring was Scott Johnson serving in his stead and was at the last meeting, does he have a report for us.

**The Secretary** said that the consensus of the group was that the differences between the actuarial assumptions of the Federated Plan's actuary and the Segal Company have been harmonized to the greatest extent possible. There are still some differences in there but they were justified and the consulting actuaries were asked to proceed with valuing the liability for health plan benefits independent of each other using their own assumptions. This is the results within this report.

Vice Chair Heredia mentioned that there is an intrinsic difference though in how Federated pays for retirement medical compared to how we pay for retirement medical.

The Secretary said that yes there is a difference and that was taken into consideration, which lies partially in the determination of what the discount rate ended up being. The discount rate is on the pool of assets that are set aside to pay medical benefits.

Mr. Angelo stated that as a result of the committee discussions the principal focus was on the discount rate, which has been mentioned. That does reflect the way that assets are invested. The ultimate decision was to look at the level of funding of the benefit and to wait the short term (5% rate) with the long term rate, in this particular case it was about 10% funded we took a weighting of 5% at 8% weighted, sort of 90/10, so that is where we get a 5.3% rate and that is the balance between 10% of the assets being invested more long term on the pension fund and 90% of the assets being invested in the long term City money. So the coordination of assumptions was where the bulk of the discussion was and it was a very well informed process.

Mr. Yeung said that the results provide two pieces of information required for disclosure purposes. Number one is the annual required contribution (ARC) amount, so this means that every year our active members work for us there is a cost to provide a benefit for one more years of service, so that is the normal cost component. There is also a cost associated with paying down the liability that has not been funded for our retiree's and our actives. The way it works for this new accounting standard is that the accounting standard never requires the Plan to accelerate the funding; in other words it is fine to leave the current 10 year cash flow funding policy untouched in this process. Very similar to what the accounting profession has required from you 15 years ago now, they said you have to for the purpose of disclosure on the City's Financial Statement everything has to be

done on an accrual basis. They say you have to book at normal cost to provide for the benefit for one year, also any unfunded liability that we have has to be paid off no less frequently than 30 years, so there's an amortization of this past unfunded liability. If we do the math and add the two together its 27.4% of payroll, assuming that the Board doesn't change its current funding policy to pay the benefit over a 10 year period. The bottom line is no change is required for the Boards funding policy so that will be the cash that needs to be injected in the system but for accrual purposes starting with the date mentioned in the report the City has to book an accrual cost of 27.4% to provide for the health benefits for the retirees. For informational purposes we have also provided what the contribution from the City would look like if they were to fund for the full annual contribution requirement and under that scenario it is \$41 million. The reason that number is smaller is because if the City were to fully fund the ARC we would be able to use the same discount, we would be able to justify the same discount rate that we have used for the pension plan for the valuation for the reasons already mentioned.

Mr. Angelo said that what the intent is as far as funding the Plan changes what assumptions you make about how well funded the Plan will be and that changes the assumption on what the Fund will earn, which then changes how much they have to fund. It's the commitment to take a certain level of funding program going forward that allows you to use the higher interest rate, but right now we are doing the report under the current approach which is not a true long term funding program and for that reason you have a lower interest rate that we use. What we are really calculating here is not how much cash is going to be put into the Fund, but how much expense and liability the City is going to show on their books, which is ultimately between them and their auditors.

There was further discussion about what GASB covers and the calculations involved in determining the assumptions.

(M.S.C. Brill/Heredia) accepted the report. Motion carried 5-0-2.

## **STANDING COMMITTEE REPORTS/RECOMMENDATIONS**

**Investment Committee (Skeen/Heredia/Muncy) – last meeting 16 February 2007.**

**Real Estate Committee (Skeen/Heredia/Muncy – Alt: Vacant) – next meeting 15 March 2007.**

**Investment Committee of the Whole (Full Board) – last meeting 16 February 2007.**

## **APPROVAL OF MINUTES**

**Monthly board meeting held 1 February 2007.**

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

## **PENDING ACTIONS LIST**

**Updated list as of 21 February 2007.**

**Chair Skeen** requested to add the police enhancement benefit ordinance to pending actions list.

(M.S.C. Muncy/Heredia) accepted the report. Motion carried 5-0-2.

## **BENEFITS REVIEW**

### **Summary of meeting held January 2007.**

**Member Heredia** asked about rumors of an RFP for providers to submit new rates for medical.

*Mrs. Bermillo* stated that no RFP's were occurring at this time.

*Mr. Rickett's* said that he was at the meeting that just took place yesterday, and that the POA heard there was communication from the medical providers to try to mitigate the costs.

**Member Heredia** said that there is an RFP for employee assistance.

*Mr. Rickett's* said there is because of the costing problem.

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

## **CONSENT CALENDAR**

**Chair Skeen** pulled item 15e for discussion.

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

### **Copy of letter distributed to Plan members notifying them of the possible release of personal information.**

**Member Heredia** said that there should have been an update about this issue. People have brought questions to him about credit reporting costs since we caused this leak.

**Chair Skeen** stated that the information was released to the actuary and it was encrypted at that time, so not to downplay the seriousness, but it there was a breach but it was contained then the information was destroyed. If there is a problem, he highly doesn't think it is from this situation. He also mentioned that he still has outstanding attorney fees which are now delinquent, yet he still has to wait for the investigation to close.

**Member Brill** proposed that we invite Alex Gurza and Les White to come here to explain what occurred.

*Mr. Tennant* said let's assume that Chair Skeen is correct about the information being encrypted, but who will pay for credit checking – what is that thought and if he could have a response by Tuesday, when he attends the POA meeting.

*Mr. Rickett's* suggested that the Board agendaize a special meeting to find out about costs of credit reporting, to begin their own investigation into what occurred and to take charge.

**Member Muncy** said that he has heard that this didn't have anything to do with any employee, but that to learn what occurred the investigation needs to go back to the very beginning.

*Mr. Long* said that the San Jose Mercury News article in today's paper said that the original transmission was encrypted, but then when the data was changed into a spreadsheet the information contained was exposed.

*Mr. Rosengen* said that what happened shouldn't have occurred, but there is a law that says you can get your

credit report free yearly, also you can freeze your credit for a fee of \$10.

## **PROPOSED AGENDA ITEMS**

Special meeting agenda items to include staff research for costs of credit monitoring service for up to 1 year and consumer credit rights, status report on investigation results and further action, the Board's authority to conduct its own investigation, a letter to be sent to the City Manager requesting information or facts that he may have that would raise the concern or not to please respond.

## **PUBLIC COMMENTS**

*Mr. Tennant* asked about the three benefits that were effective on July 1, 2006 that are still not in effect because he received the ordinance in December and sent it back out right away, so he would like to know where it is in the implementation.

**The Secretary** said that the agreement is with the POA and the City and the members pay may impact the Plan. However the ordinance is with Employee Relations.

## **EDUCATION & TRAINING**

## **ADJOURNMENT**

There being no further business, at 12:19 p.m., **The Chair** stated the meeting would be adjourned.

---

**MARK J. SKEEN, CHAIR**  
**BOARD OF ADMINISTRATION**

**ATTEST:**

---

**EDWARD F. OVERTON, SECRETARY**  
**BOARD OF ADMINISTRATION**