



MINUTES

RETIREMENT BOARD MEETING

FIRST MONTHLY BOARD MEETING

9:00 a.m.

May 7, 2014

Retirement Board Conference Room

The Willows Office Park

1355 Willow Way, Suite 221

Concord, California

Present: Debora Allen, Brice Bins, Scott Gordon, Brian Hast, Jerry Holcombe, Louie Kroll, Karen Mitchoff, John Phillips and Gabe Rodrigues

Absent: William Pigeon, Jerry Telles and Russell Watts

Staff: Kurt Schneider, Deputy Retirement Chief Executive Officer; Timothy Price, Retirement Chief Investment Officer; Karen Levy, Retirement General Counsel; Vickie Kaplan, Retirement Accounting Manager; and Christina Dunn, Retirement Administration Manager

Outside Professional Support:  
Harvey Leiderman  
Susan Hastings

Representing:  
Reed Smith LLP  
Laughlin, Falbo, Levy & Moresi

1. Pledge of Allegiance

Hast led all in the *Pledge of Allegiance*.

2. Accept comments from the public

No members of the public offered comment.

Levy reported changes to agenda Item 6 and Item 7b. The Government Code Section on Item 6 (pending litigation) has changed from 54956.9(a) to 54956.9(d)(1). The Government Code Section on Item 7b (significant exposure to litigation) has changed from 54956.9(b) to 54956.9(d)(2).

3. Routine Items

It was M/S/C to approve the routine items of the May 7, 2014 Board meeting. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)

**CLOSED SESSION**

The Board moved into closed session pursuant to Government Code Sections 54957, 54956.9(b), 54956.9(d1) and 54956.9(d2).

The Board moved into open session.

4. It was **M/S/C** to accept the Medical Advisor's recommendation and grant the following disability benefits:
  - (a) Denise Burtis – Service Connected (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)
  - (b) Roberta Haynes – Service Connected (Yes: Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues. Abs: Allen and Bins)
5. It was **M/S/C** to accept the Hearing Officer's recommendation and deny the service-connected disability retirement for Angela Aquina. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)
6. There was no reportable action related to Government Code Section 54956.9(d)(1).
7. There was no reportable action related to Government Code Section 54956.9(d)(2).
- 7a. There was no reportable action related to Government Code Section 54957.
- 7b. There was no reportable action related to Government Code Section 54956.9(d)(1).
8. **Consider and take possible action to adopt resolution regarding the exclusion of physicians' call-back pay from compensation for retirement purposes**

Leiderman reported the Board had previously requested a presentation on the use of call-back pay in compensation earnable for members of PDOCC. He provided an overview of compensation earnable under the California Employees' Retirement Law ("CERL") and case law prior to AB 197. He noted that CERL Section 31461 excludes overtime pay in compensation earnable if it is outside normal working hours and is voluntary.

He discussed the additional limitations AB 197 added to compensation earnable. He noted AB 197 added Section 31461(b) which clarifies that compensation earnable does not include compensation determined by the Board to have been paid to enhance a member's retirement benefit or payments for additional services rendered outside of normal working hours.

He noted there are three different overtime pay types reported by the County under pay code D16 for PDOCC members. He discussed the three types of overtime and the tasks that are performed during each type of overtime.

He stated his recommendation is for the Board to adopt the proposed resolution affirming the treatment of pay code D16 as excluded from compensation earnable and permit each member seeking inclusion of past D16 pay to provide evidence satisfactory to the Board that the pay received did meet the stated requirements.

In public comment, Arthur Liou, attorney for PDOCC, noted his client's arguments are listed in the attachment contained in the Board's agenda packet. He feels that call back pay is vital and necessary for physicians to perform. He explains that the physicians were not told to report the different types of overtime differently. He feels there has not been any accountability on how this error was discovered. If the Board decides to exclude this pay code from compensation earnable he would like assurance that the contributions collected on this pay code would be paid back to the physicians.

Dr. David MacDonald, Physician at Contra Costa Medical Center and president of PDOCC, stated the twelve months with the highest salary may be for a period of time ten years ago. He would like CCCERA to honor the agreement established between PDOCC and the County to include this pay code in compensation earnable.

After discussion, it was **M/S/C** to adopt the resolution regarding the exclusion of physicians' call-back pay from compensation for retirement purposes. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff and Phillips. Abs: Rodrigues)

In public comment, Daniel Borenstein, Contra Costa Times, stated he would like to request information on the investigation of this pay code. He also requested the Board waive confidentiality of the written report prepared by Reed Smith.

It was **M/S/C** to waive confidentiality of the Reed Smith memorandum dated April 14, 2014. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)

9. **Consider and take possible action regarding the non-service connected disability retirement allowance of deceased member Ronald Galloway**

Schneider reported Ronald Galloway was an active CCCERA Tier 1 member and Central Sanitary District employee when he died on May 19, 2011. Prior to his death he had a valid active death form on file and filed for a disability retirement electing Optional Settlement 2. Typically the Board would have made a determination as to whether the member was permanently incapacitated for the performance of duty, but due to an administrative oversight the matter was not brought to the Board in 2011.

He discussed his recommendation to find that the member was permanently incapacitated from performing his usual and customary duties as a Maintenance Crew Leader and grant a non-service connected Tier I disability retirement, effective May 19, 2011 and to grant his children benefits pursuant to government code section 31762.

It was **M/S/C** to find that the member was permanently incapacitated from performing his usual and customary duties as a Maintenance Crew Leader and grant a non-service connected Tier 1 disability retirement, effective May 19, 2011, grant his children benefits pursuant to Government Code Section 31762 (Optional Settlement 2 allowance for the life of the named beneficiaries) and for staff to provide the Board with a review of the active death form practices. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)

10. **Consider and take possible action to adopt a public statement of Board intent to review past incidents of unusual compensation increases at end of employment**

Levy noted the Board requested staff prepare a proposed public statement of intent to review past incidents of unusual compensation increases at the end of employment for adoption by the Board.

It was **M/S/C** to adopt a public statement of Board intent to review past incidents of unusual compensation increases at the end of employment; disseminate the statement of intent to all interested parties including employers, employee groups and retiree groups; and direct staff to research and compile data regarding past unusual increases in final average salary. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)

11. **Receive report regarding potential compensation enhancement for a retiring member (on call pay)**

Schneider reported during the compensation review of a retiring Deputy Sheriff Lieutenant, staff noted payment of compensation that could be excluded from the calculation of final average compensation were it not for the stay order prohibiting CCCERA from implementing AB 197. The Board has directed staff to report these items to the Board even if the stay order prevents CCCERA from excluding the compensation.

He noted this item is an informational item only.

**12. Receive report regarding potential compensation enhancement for a retiring member (holiday pay and shift differential)**

Schneider reported during the compensation review of a retiring Clerk-Senior Level, staff noted payment of compensation that could be excluded from the calculation of final average compensation were it not for the stay order prohibiting CCCERA from implementing AB 197. The Board has directed staff to report these items to the Board even if the stay order prevents CCCERA from excluding the compensation.

He noted this item is an informational item only.

**13. Review of Budget vs. Actual for 2013**

Schneider distributed detailed Budget vs. Actual reports for 2013 for Administration and for Legal and Investment noting that we are substantially under-budget. He noted we are substantially under budget due to the high amount of vacant positions.

**14. Consider and take possible action on SACRS Board of Directors Elections**

It was M/S/C to accept the SACRS Nominating Committee recommendations for the 2014-2015 Slate. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)

**15. Consider and take possible action regarding the Board's previous request to the County to maintain CCCERA staff wages and benefits at status quo**

Hast reported AFSCME Local 2700 represents the majority of CCCERA's represented staff and is currently in negotiations with the County. AFSCME Local 2700 has requested the Board reiterate its original request made to the County to restore the 2.75% base salary reduction implemented in 2012 to the CCCERA staff members represented by AFSCME Local 2700 and that the restoration would be in addition to whatever base pay increases the County negotiates with AFSCME.

It was M/S/C to reiterate the Board's original request to the County to reinstate the 2.75% salary reduction to CCCERA staff members represented by AFSCME Local 2700 prospectively, in addition to the other negotiated increases. (Yes: Gordon, Hast, Kroll, Phillips and Rodrigues. No: Mitchoff. Abs: Allen and Bins)

**16. Conference Seminar Attendance**

- a. There was no reportable action.
- b. It was M/S/C to authorize the attendance one staff member at the Annual Partners Meeting, DLJ, May 29, 2014, New York, NY. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)
- c. It was M/S/C to authorize the attendance of one staff member at the Annual Meeting, Paladin, June 4, 2014, Washington, D.C. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)
- d. It was M/S/C to authorize the attendance of up to four Board members at the Trustees' Roundtable, CALAPRS, June 13, 2014. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)

**17. Miscellaneous**

- (a) Staff Report –

Schneider reported benefit statements were mailed.

Kaplan reported the final audit was last week and there were not any findings reported during the preliminary exit meeting.

Price reported he attended the Institutional Investors conference, the Milken Global conference, the Ocean Avenue onsite and two real estate visits to DLJ properties.

(b) Outside Professionals' Report -

None

(c) Trustees' comments -

Gordon encouraged Board members to vote yes on measure E.

Allen reported she attended the NCPERS conference and the Siguler Guff conference.

She requested the audio recordings from the Board meetings be placed on the website immediately.

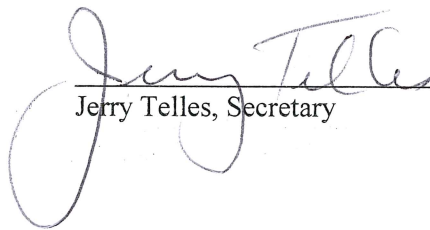
Allen also requested the calculation of termination pay be included on a future agenda for consideration.

It was M/S/C to adjourn the meeting. (Yes: Allen, Bins, Gordon, Hast, Kroll, Mitchoff, Phillips and Rodrigues)



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Brian Hast, Chairman



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Jerry Telles, Secretary