



## MINUTES

### RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING  
February 13, 2019  
9:00 a.m.

Retirement Board Conference Room  
The Willows Office Park  
1355 Willow Way, Suite 221  
Concord, California

Present: Candace Andersen, Scott Gordon, Jerry Holcombe, Louie Kroll, Jay Kwon, David MacDonald, John Phillips, William Pigeon, Todd Smithey, Jerry Telles and Russell Watts

Absent: None

Staff: Gail Strohl, Chief Executive Officer; Christina Dunn, Deputy Chief Executive Officer; Timothy Price, Chief Investment Officer; Karen Levy, General Counsel; Wrally Dutkiewicz, Compliance Officer; Anne Sommers, Administrative/HR Manager; Henry Gudino, Accounting Manager; Tim Hoppe, Retirement Services Manager; and Colin Bishop, Member Services Manager

Outside Professional Support:	Representing:
Harvey Leiderman	Reed Smith LLP
Christopher Boucher	Wiley Price & Radulovich LLP

#### **1. Pledge of Allegiance**

The Board, staff and audience joined in the *Pledge of Allegiance*.

Telles was present for subsequent discussion and voting.

#### **2. Recognition of Gi Ocang for 20 years of service**

Smithey recognized and congratulated Gi Ocang for her 20 years of service.

#### **3. Accept comments from the public**

No member of the public offered comment.

#### **4. Approval of minutes**

It was M/S/C to approve the minutes of the January 9, 2019 Board meeting with a correction to Item 9, second paragraph, last line, add the word "care" after the word taken. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Smithey, Telles and Watts).

Pigeon was present for subsequent discussion and voting.

**5. Routine Items**

It was M/S/C to approve the routine items of the February 13, 2019 meeting. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Smithey, Telles and Watts)

**CLOSED SESSION**

The Board moved into closed session pursuant to Govt. Code Section 54957.6, 54957, 54956.9(d)(1) and 54956.9(d)(4).

The Board moved into open session.

6. There was no reportable action related to Govt. Code Section 54957.6.
7. It was M/S/C to accept the Medical Advisor's recommendation and grant the following disability benefits:
  - a. Michelle Wojack – Service Connected (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Smithey, Telles and Watts)
8. This item was not discussed. Confer with legal counsel pursuant to Govt. Code Section 54956.9(d)(1) regarding pending litigation: Fernandez v. CCCERA, et al., Contra Costa County Superior Court, Case No. CIVMSN17-036.
9. This item was not discussed. Confer with legal counsel pursuant to Govt. Code Section 54956.9(d)(4) regarding the initiation of litigation (one case).

It was the consensus of the Board to move to Item 11.

**11. Consider and take possible action to adopt the Memorandum of Understanding (MOU) between CCCERA and United Clerical, Technical & Specialized Employees (AFSCME), Local 2700, January 1, 2019 through December 31, 2023 and authorize the CEO to execute said MOU**

It was M/S/C to adopt the Memorandum of Understanding (MOU) between CCCERA and United Clerical, Technical & Specialized Employees (AFSCME), Local 2700, January 1, 2019 through December 31, 2023 and authorize the CEO to execute said MOU. (Yes; Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Smithey, Telles and Watts)

**12. Consider and take possible action to adopt the CCCERA pay schedules for classifications represented by AFSCME, Local 2700, effective February 16, 2019**

It was M/S/C to adopt the CCCERA pay schedules for classifications represented by AFSCME, Local 2700, effective February 16, 2019. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Smithey, Telles and Watts)

It was the consensus of the Board to move to Item 10.

**10. Consider and take possible action regarding non-service connected disability retirement allowance of deceased member John Mozzetti**

Hoppe provided a brief background on the item noting this was brought to the Board on January 9, 2019. Mr. Mozzetti passed away while he was an active member and had an active death form on file at the time of his death, in which he selected Optional Settlement 2 and designated a beneficiary. As directed in writing by the member, CCCERA filed a non-service connected disability on his behalf. The medical advisor concluded that prior to his passing, Mr. Mozzetti was totally disabled from any

employment for minutes prior to his death and met the requirements of a permanent disability for a Tier 3 member for a non-service connected disability.

Leiderman addressed the law and Board policy on active deaths in the event of a non-service connected disability. He noted that an appellate court has recently stated in the Wilmot case that the CERL law is a statute of almost fiendish complexity. He noted that the law is favorable towards surviving spouses. There is an on-point California Supreme Court decision, the Gorman case. The case endorses the process that CCCERA has been using for years, in terms of the ability to pre-designate a choice of an optional settlement that springs into being in the event that the timing is such that there is no time to sign a form and carry it over or electronically transmitting it before the member passes away. The optional settlement can be elected in writing at any time prior to retirement and a disability can be filed by anyone even after retirement. The Board's policy is a reasonable interpretation of the statute. In this situation, if the board denies and the decision is challenged, we have a good idea of which way the court will go, based on that Supreme Court precedent.

Leiderman noted there needs to be a discernable period of time in which the member is disabled and can no longer do their job. As to the disability and drawing a line between disability and death, both interpretations are reasonable and both can be defended. The Board is called upon to make a collective judgment on whether to grant the non-service connected disability in this case.

Levy noted that the consequence to the surviving spouse of a Board denial of the non-service connected disability is that the beneficiary could receive the default death benefit, which is a lump sum payment. Alternatively, the surviving spouse could elect to receive a sixty percent continuance for the spouse's lifetime, instead of the lump sum death benefit.

There was a lengthy discussion on the timing of the disability and the death, how active deaths have been handled in the past, and having a discussion at a future board meeting without attaching a specific member to that discussion.

It was M/S/C to 1) Find that the member was permanently unable to engage in any substantial gainful employment and grant a non-service connected disability retirement, effective March 25, 2017 and 2) Grant the member's beneficiary (member's spouse) benefits pursuant to Government Code Section 31762 (Optional Settlement 2 allowance for the life of the named beneficiary). (Yes: Holcombe, MacDonald, Phillips, Pigeon, Smithey and Telles. No: Andersen, Gordon and Watts)

It was the consensus of the Board to move to Item 13.

### **13. Presentation of CCCERA's Pre-Retirement Workshop**

Strohl provided a brief background on the pre-retirement workshop noting that a presentation on the retirement application process will be held at the next board meeting.

Hoppe reported CCCERA holds 11 pre-retirement workshops a year and noted that representatives from CCCREA, RSG, Mass Mutual and Contra Costa County Benefits are present at the workshops. He stated there are normally 20-25 attendees at each workshop and that 2-3 estimates are prepared for each attendee.

Hoppe introduced Brianne Wilkins, Senior Retirement Counselor.

Pigeon was no longer present for subsequent discussion and voting.

Wilkins distributed a copy of the packet that is given to the attendees at the pre-retirement workshop. She reviewed the topics that are covered including eligibility & vesting, benefit calculations, benefit option choices, final preparation for retirement, death during active membership, and a workshop survey.

**14. Consider authorizing the attendance of Board:**

- a. There was no action taken on this item. Global Real Assets Investment Forum, Institutional Investor Forums, February 26-27, 2019, Austin, TX.
- b. There was no action taken on this item. Ares Annual Investor Dinner and Meeting, April 15-16, 2019, Dana Point, CA.
- c. There was no action taken on this item. AE Industrial Partners Annual Meeting, April 16, 2019, Boca Raton, FL.
- d. There was no action taken on this item. 3<sup>rd</sup> Annual West Coast Private Equity Summit, Institutional Investor Forums, April 23, 2019, Los Angeles, CA.
- e. It was **M/S/C** to authorize the attendance of 2 Board members at the 2019 Annual Conference, Siguler Guff & Company, April 24-25, 2019, New York, NY. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Smithey, Telles and Watts)
- f. There was no action taken on this item. Roundtable for Public Funds, Institutional Investor, April 24-26, 2019, Los Angeles, CA.

**15. Miscellaneous**

(a) Staff Report –

Strohl reported Segal is working on our annual valuation report for the 2018 year as well as our experience study and they will be presented later this year; Cheiron is working on our actuarial audit; we are working on our custodian conversion from State Street to Northern Trust and our targeted conversion date is March 1, 2019; we are in negotiations for our new building lease; and she received a question from a Trustee asking if we have an AED (Automated External Defibrillator) in the office. She stated we have one AED in the office and the Safety Committee members are trained to use it.

(b) Outside Professionals' Report -

Leiderman reported the Orange County Employees' Retirement System has received a favorable ruling from the Court of Appeals in their dispute with the Orange County Office of Education and noted the ruling was not published yet. The dispute was over the education district's refusal to pay retirement contributions where the district no longer had any active employees but still had retirees and ongoing retirement liabilities owed to OCERS.


Kwon was no longer present for subsequent discussion and voting.

(c) Trustees' comments –

None

It was **M/S/C** to adjourn the meeting. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Smithey, Telles and Watts)

  
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Todd Smithey, Chairman

  
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David MacDonald, Secretary