



MINUTES

RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING  
March 8, 2017  
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, David MacDonald, John Phillips, William Pigeon, Gabe Rodrigues, Todd Smithey, Jerry Telles and Rusty Watts

Absent: Debora Allen

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

Outside Professional Support: Representing:  
Susan Hastings Laughlin, Falbo, Levy & Moresi LLP  
Harvey Leiderman Reed Smith LLP

**1. Pledge of Allegiance**

Watts led all in the *Pledge of Allegiance*.

**2. Accept comments from the public**

No member of the public offered comment.

**3. Approval of Minutes**

It was M/S/C to approve the minutes of the January 25, 2017 meeting. (Yes: Andersen, Gordon, Holcombe, Kroll, MacDonald, Phillips, Rodrigues and Watts)

Pigeon and Telles were present for subsequent discussion and voting.

**4. Routine Items**

It was M/S/C to approve the routine items of the March 8, 2017 meeting. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Rodrigues, Telles and Watts)

Smithey was present for subsequent discussion and voting.

**CLOSED SESSION**

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

The Board moved into open session.

5. It was M/S/C to accept the Medical Advisor's recommendation and grant the following disability benefits:

a. Steve Evans – Service Connected (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Smithey, Telles and Watts. No: Rodrigues)

6.

a. The Board voted unanimously to engage Reed Smith LLP to represent CCCERA and each of its' Board members in the case Peter J. Nowicki v. CCCERA, et al., United States District Court, N.D. Cal., Case No.: cv-00629. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)

b. The Board voted unanimously to engage Laughlin, Falbo, Levy & Moresi to represent CCCERA and its' Board members in the case Nidia Santos v. CCCERA, et al., Contra Costa County Superior Court Case No.: N16-2334. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)

c. There was no reportable action related to Govt. Code Section 54956.9(d)(1).

7. **Presentation on the compensation enhancement review process**

Levy reviewed the current laws on assessment of compensation enhancements including the 2012 legislative changes to the County Employees Retirement Law of 1937 (CERL) noting AB 340 and AB 197 became effective January 1, 2013. She reviewed the legal requirement for a procedure for assessing enhancements under Section 31542, the exclusion of compensation enhancements and compensation earnable under Section 31461, and the exclusion of compensation paid to increase a retirement benefit under Section 7522.34. She noted that Section 7522.34 defining pensionable compensation applies to PEPRAs members, not legacy members. She reviewed Govt. Code 31539 which provides for the exclusion of improper increases in final compensation noting it has been in effect since 2004. She stated AB 340 added the authority for the Board to audit a county or district to determine the correctness of retirement benefits, reportable compensation and enrollment in, and reinstatement to the system. She briefly reviewed CCCERA's current policies and pending litigation.

Hoppe reviewed CCCERA's implementation of the Policy Regarding Assessment and Determination of Compensation Enhancements. He reviewed the process used by retirement counselors when a legacy member files an application to retire. He described the compensation enhancement review process noting the retirement counselors research and identify if the final average salary (FAS) is increased by 5% or more or if any element of pensionable compensation is increased by 5% or more. He stated the increases are mostly from cost of living increases, longevity pay and departmental transfers to higher paying positions. Once a final calculation is made, a second review and validation is completed by the Retirement Services Supervisor and if any items are questionable and need further research, the application is given to him, as the department manager, or if necessary to the Compliance Officer, General Counsel and/or the CEO as required. He noted the process has been in place since 2013.

8. **Consider and take possible action to revise the Policy Regarding Assessment and Determination of Compensation Enhancements**

Strohl recommended a revision to the Policy Regarding Assessment and Determination of Compensation Enhancements to include a provision in the policy to review the policy at least every 3

years and may be amended at any time. It was M/S/C to revise the Policy Regarding Assessment and Determination of Compensation Enhancements as presented. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smitley, Telles and Watts)

9. **Consider and take possible action to provide direction pertaining to the CCCERA Retiree Lookback Project – Compensation Enhancement Study**

Dutkiewicz reviewed the background of the Retiree Lookback Project and the observations that were made during the project. He stated there were 188 retirees that were identified as having a 30% increase or more in the member's final average salary (FAS) period compared to the pre-FAS period. He noted after review of available information the pool was reduced to 42 retirees. At this point the universe of past incidents of unusual compensation increases has been exhausted and does not merit further review.

In public comment, Lola Ellwein, attorney and wife of retiree Jerry Yoshioka asked the Board: 1) How much did it cost the retirees to conduct the multiyear lookback project; 2) What tangible benefits did the retirees receive from the lookback project; and 3) What could have and should have been done differently. She also asked why CCCERA didn't ask the retirees first. She distributed a copy of an email from Jerry Yoshioka asking CCCERA how much the Project cost and a copy from CCCERA responding to his public records request. She stated CCCERA retirees are entitled to know how their money is spent. She also stated Mr. Yoshioka sent 2 emails to CCCERA asking what was needed from him and he did not receive a response. She asked that CCCERA put in writing that the pensions will no longer be reviewed.

Phillips reported that Trustee Allen has advised she concurs with ending the Lookback Project but would like CCCERA to take action to begin a culture change with respect to pension spiking and to establish a communications program to accomplish this.

It was M/S/C regarding the Retiree Lookback Project - Compensation Enhancement Study that: a) based on the observations contained in the staff reports and in light of the Board's prior decisions, no further unusual retiree compensation increases from 2004 to 2014 merit further review at this time; b) with the completion of the Retiree Lookback Project, the Board will continue to maintain its authority under applicable law to correct any errors upon discovery and take appropriate steps to ensure that retirement allowance payments and retirement contributions are correct; and c) the Board will continue to implement its procedure of assessing and determining whether an element of compensation was paid to enhance a CCCERA members benefit, as required pursuant to Government Code Section 31542, effective January 1, 2013. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smitley, Telles and Watts)

The Board directed staff to: make a detailed presentation to the Board covering the administrative procedures currently in effect to review individual employee or retiree calculations; provide a description of the formal steps and language used by CCCERA staff to communicate with employees or retirees regarding improper FAS enhancements; present a detailed report by month to include all apparently improper enhancements identified to date without including individual employee or retirees' names; provide the Board with periodic summaries of the apparently improper enhancements; confirm the existence or the establishment of a policy to secure the sponsoring employers' and departments' affirmative (written) acknowledgment of their understanding of the policy related to improper enhancements along with written confirmation of their actions to correct any questionable pay coding practices; present the Board with samples of all printed or written CCCERA materials as well as any retirement counselor scripts or talking points along with recommendations on how they will, if required, be modified to detail CCCERA's policy regarding potentially improper FAS enhancements; and, draft a document for Board review whereby all future employee counselees will be required to affirmatively acknowledge their understanding of what constitutes improper FAS enhancements and the possible ramification.

There was discussion on the current process, an educational session on this topic and lessons learned from this project.

**10. Disability Education Presentation**

Hoppe reviewed the disability application process, the definition of an application being accepted as filed vs. submitted, the time requirements for filing, and the counseling process noting that the service application process is easier to go through than the disability application process. He reviewed eligibility requirements for service connected and non-service connected disabilities, safety presumptions, and how disability benefits are calculated for Tier 1, Safety, Tier 3 and PEPRA. He explained the definition of substantial gainful employment noting the standard is unique to CCCERA.

He described the initial file review when an application is filed by a member and when one is filed by an employing department. He reviewed the casefile preparations including medical and employment records that may be requested which are then submitted to the medial advisor for their review and recommendations. He also reviewed the possible recommendations and the options available to members, including the hearing process. He noted there are currently 65 open applications at this time.

**11. Presentation of Semi-Annual Disability Retirement Report**

Hoppe gave an update on the semi-annual disability retirement report noting the number of disability applications dropped down in the second half of 2016 from the first half of 2016. He reviewed the applications received by department, type of injury and illness, and by employer.

**12. Review of Initial Report on Liquidity Sub-portfolio**

Price reported January 2017 was the first month the Liquidity program was used to pay benefit payments. He reviewed performance, manager positioning and functional roles for the Liquidity Sub-portfolio.

**13. Consider and take possible action to adopt BOR Resolution 2017-1, Investment Asset Allocation Targets and Ranges**

Price reported this Resolution provides the Phase 2 asset allocation targets and ranges as an interim step towards reaching the desired long-term asset allocation.

It was M/S/C to adopt BOR Resolution 2017-1, Investment Asset Allocation Targets and Ranges. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)

Andersen was no longer present for subsequent discussion and voting.

**14. Consider authorizing the attendance of Board and/or staff:**

- a. It was M/S/C to authorize the attendance of 4 Board members at the Education in Private Equity, National Association of Securities Professionals, March 29-30, 2017, Los Angeles, CA. (Yes: Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)
- b. It was M/S/C to authorize the attendance of 2 Board members and 1 staff member at the Ares Annual Investors Meeting, Ares Energy Investors Funds, April 18-20, 2017. (Yes: Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)
- c. It was M/S/C to authorize the attendance of 2 Board members and 1 staff member at the Annual Investment Symposium, Dimensional Fund Advisors, April 24-26, 2017, Austin, TX. (Yes: Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)

15. Miscellaneous

(a) Staff Report –

Strohl reported CCCERA became a member of NASRA (National Association of State Retirement Administrators) last year. She attended their winter meeting and felt it was very beneficial.

Price reported the on-site visit with TT International will be on March 28, 2017.

(b) Outside Professionals' Report -

None

(c) Trustees' comments –

Telles thanked and complimented Price for his participation at CALAPRS.

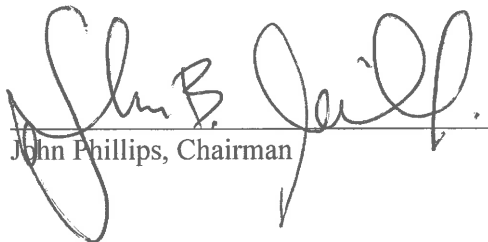
Phillips reported on the CALAPRS General Assembly noting he felt it was a productive meeting.

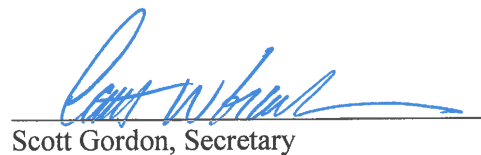
MacDonald reported he and Rodrigues attended the Commonfund Forum and felt it was very educational.

Rodrigues reported there have been changes to the recommended SACRS slate of officers and he will be making a recommendation at the next meeting.

Holcombe reported he attended the Sit Investment Associates Conference and felt it was very interesting.

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

  
John Phillips, Chairman

  
Scott Gordon, Secretary

