



MINUTES

RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING
November 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, Jay Kwon, David MacDonald, John Phillips, William Pigeon, Gabe Rodrigues, Todd Smithey, Jerry Telles and Rusty 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: Harvey Leiderman
Representing: Reed Smith LLP

Board members Gordon, Rodrigues and Telles attended remotely from The Lodge at Torrey Pines in La Jolla, CA.

1. Pledge of Allegiance

Staff 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 from the September 27, 2017 meeting. (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Smithey, Telles and Watts)

4. Routine Items

It was M/S/C to approve the routine items of the November 8, 2017 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 and 54956.9(d)(1).

The Board moved into open session.

5. It was M/S/C to accept the Medical Advisor's recommendations and grant the following disability benefits:
 - a. Ryan Fenyes – Non-Service Connected (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Rodrigues, Smithey, Telles and Watts)
 - b. Kristen Patterson – Non-Service Connected (Yes: Andersen, Gordon, Holcombe, MacDonald, Phillips, Pigeon, Smithey, Telles and Watts)

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

7. **Consider and take possible action to determine whether the Health Insurance Opt-Out Pay Differential received by James Colon is a compensation enhancement and should be excluded from his final average salary, as authorized under Government Code Section 31461(b)(1) and 31539**

- a. Dunn reviewed CCCERA's Policy Regarding Assessment and Determination of Compensation Enhancements.

Hoppe reviewed the background on the San Ramon Valley Fire Protection District's Board approved Employee Health Insurance Opt-Out Plan noting the Plan offers eligible employees a \$300 per month cash payment for declining District provided medical coverage. He stated the District contacted CCCERA in October 2013 regarding the pensionability of the \$300 monthly Opt-Out payment. CCCERA responded that for Legacy Members the item is included in Compensation Earnable, however it would be excluded if it was paid to enhance the member's retirement benefit. He reviewed the periods Mr. Colon was enrolled in the District's medical insurance, the periods he participated in the Opt-Out Plan and the retirement benefit with and without including the cash payments. Based on the limited period of time that Mr. Colon elected to receive the Opt-Out differential prior to his retirement, CCCERA initially determined that the Opt-Out pay was an enhancement and should be excluded from his Final Average Salary.

There was a discussion on the number of employees receiving the monthly cash payments, the terms of enrolling in the Opt-Out Plan, the pensionability of the monthly cash payments for those receiving the payments, and Mr. Colon's intended retirement date.

- b. James Colon, retired Fire Captain, San Ramon Valley Fire Protection District, stated he had no intentions of retiring early and had intended to work another two years but due to an injury he had to file a retirement disability application. He stated he was told the cash payments were pensionable and CCCERA began taking contributions on the monthly payments as soon as he began receiving them.

The Board asked questions regarding the difference in the cost of his spouse's medical insurance plan, advice he may have received from CCCERA staff, the retirement estimates and the dates used in the estimates he received from CCCERA staff, and whether or not he intentionally enrolled in the Opt-Out Plan to enhance his retirement benefit.

- c. Natalie Korthamar Wong, HR Director, San Ramon Valley Fire Protection District, stated their main interest is that they have a sustainable system for their employees and are not taking a position on the decision. She stated employees can opt out and make changes regarding their medical insurance at any time after retirement.
- d. There was no public comment related to this item.

- e. There was a **motion** that in the case of James Colon that the Opt-Out Pay he received be deemed compensation earnable. Levy clarified that the decision for the Board is to determine whether or not the compensation paid was paid to enhance the member's retirement benefit.

After a discussion, it was **M/S/C** that in the case of James Colon that the Opt-Out Pay he received was not paid to enhance his Final Average Salary and should be included in his Final Average Salary. (Yes: Andersen, Gordon, MacDonald, Pigeon, Telles and Watts. No: Holcombe, Phillips and Smithey)

Gordon, Rodrigues and Telles were no longer present for subsequent discussion and voting.

8. Educational presentation on Ralph M. Brown Act open meetings laws

Levy gave a presentation on the Ralph M. Brown Act noting this is an annual educational presentation that is provided to the Board. She reviewed the rules regarding open meetings held by local legislative bodies, which includes the CCCERA Board of Retirement. She reported that effective January 1, 2019, the Agenda must be accessible through a prominent, direct link on the CCCERA website. She also reported that if the Board places limits on public comment time they must provide at least twice as much time if a member of the public is using a translator.

9. Educational session on fiduciary duties presented by fiduciary counsel

Leiderman distributed a handout and discussed the roles and responsibilities of fiduciaries including the exclusive benefit rule, primary loyalty rule, the prudent expert standard, duty to diversify and the requirement to act lawfully.

10. Consider authorizing the attendance of Board:

- a. It was **M/S/C** to authorize the attendance of 2 Board members at the Advanced Principles of Pension Management for Trustees, CALAPRS, March 28-30, 2018, Los Angeles, CA. (Yes: Andersen, Holcombe, Kroll, Kwon, MacDonald, Phillips, Pigeon, Smithey and Watts)

11. Miscellaneous

- (a) Staff Report –

Strohl reported we recently renewed our fiduciary and excess liability insurance policy; she introduced Stephanie Shedd, the new Executive Assistant; and the next Board meeting will be November 21, 2017 at the Pleasant Hill Community Center.

- (b) Outside Professionals' Report -

None

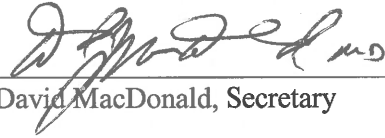
- (c) Trustees' comments –

Phillips reported on the highlights of the PRJ 31st Annual NorCal Public Retirement Seminar that he, Holcombe, Rodrigues and Smithey attended.

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



Todd Smithey, Chairman



David MacDonald, Secretary