



# BOARD OF ADMINISTRATION

## Meeting Minutes - Final FCERS and Police&Fire Retirement Plan Audit Committee

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Thursday, August 15, 2024

11:30 AM

City Hall, Wing Rooms 118 - 120  
200 E. Santa Clara St. San Jose, CA 95113

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or immediately following the conclusion of the FCERS Board meeting

### HYBRID MEETING

#### PHYSICAL LOCATION:

City Hall, Wing Rooms 118-120  
200 E. Santa Clara St.  
San Jose, Ca 95113

#### ZOOM INFORMATION:

zoom.us

Dial In: +1 669-219-2599 US (San Jose)

Meeting ID: 922 6979 0369

Pass Code: 226937

#### *FCERS Committee Members:*

*Prachi Avasthy, Chair (Term Expires 11/30/25)*  
*Deborah Abbott, Trustee (Term Expires 11/30/26)*  
*Julie Jennings, Trustee (Term Expires 11/30/27)*

#### *Police and Fire Committee Members:*

*Howard Lee, Chair (Term Expires 11/30/26)*  
*Sunita Ganapati, Trustee (Term Expires 11/30/26)*  
*Dave Wilson, Trustee (Term Expires 11/30/25)*

**Present:** 5 - Debbie Abbott, Prachi Avasthy, Sunita Ganapati, Howard Lee and Julie Jennings

**Absent:** 1 - Dave Wilson

The Federated Audit Committee and Police and Fire Audit Committee met in person on Thursday, August 15, 2024 at City Hall, Wing Rooms 118-120, 200 E. Santa Clara St., San Jose, CA 95113 and via Zoom at 11:30 a.m. The Police and Fire Audit Committee meeting was called to order at 11:54 a.m. by Chair Lee. The Federated Audit Committee meeting was called to order at 11:54 a.m. by Chair Avasthy.

Police and Fire Committee Members Present: Sunita Ganapati and Howard Lee.

Trustee Wilson was absent.

Federated City Employees Retirement System (FCERS) Committee Members Present: Prachi Avashty, Deborah Abbott, and Julie Jennings.

Retirement Staff Present: Roberto L. Peña, Barbara Hayman, Benjie Chua-Foy, Jay Kwon, Chris Ha, Sherrell Aledo, Edith Aldama, Cynthia Ayala, and David Torres.

Retirement Staff Present via Zoom: Linda Alexander and Nam Cao.

Also Present: Maytak Chin, General and Fiduciary Counsel; and John Flynn, Public Member.

Also Present via Zoom: Valter Viola, Cortex Consulting.

**I. AB 2449 REMOTE APPEARANCE(S)**

**a. Just Cause Circumstance(s) (Gov't Code § 54953)**

- i. The following Trustee(s) have notified the Board of a “Just Cause” to attend this meeting via teleconference.

NONE

- ii. Call for Trustee(s) who wish to notify the Board of a “Just Cause” to attend this meeting via teleconference.

**b. Emergency Circumstance(s) (Gov't Code § 54953)**

- i. The following Trustee(s) have requested the Board approve their attendance of this meeting via teleconference due to an “Emergency Circumstance.”

NONE

- ii. Call for Trustee(s) requesting the Board approve their attendance of this meeting via teleconference due to an "Emergency Circumstance."
- iii. Take action on request(s) for remote appearance.

## **JOINT AUDIT COMMITTEE**

- **Call To Order and Roll Call**
- **Orders of the Day**

This item was heard immediately after roll call attendance.

Chair Lee read the following into the record:

### **A FEW GROUND RULES FOR THIS MEETING**

- We are holding this meeting as a hybrid meeting, and so those who are attending virtually, please mute yourself unless you are speaking and if you wish to speak, please raise your hand and staff will alert the Chair.
- The public will have an opportunity to speak on each item after trustees.

### **Orders of the Day**

- None

Waive Sunshine (amended/attachments POSTED late):

- None.

## **1. CONSENT CALENDAR**

A motion was made to approve the Consent Calendar.

Police and Fire Committee Approved. (M.S.C. Ganapati/Lee 2-0-0).

Trustee Wilson was absent.

FCERS Committee Approved. (M.S.C. Abbott/Jennings 3-0-0).

- a. Approval of the Minutes of the May 16, 2024 Joint Audit Committee meeting for the Federated City Employee's Retirement System and the Police and Fire Department Retirement Plan.

## **2. OLD BUSINESS**

- a. Update on status of request to custodian bank (Bank of New York Mellon) to correct fiscal years 2016-2023 Pension Plans' returns based on the results of the Agreed Upon Procedures work completed by Macias Gini & O'Connell LLP audit firm.

Jay Kwon, Senior Investment Officer, updated the Committee and answered questions from the Committee. CEO Peña assisted in answering questions from the Committee.

**3. NEW BUSINESS**

- a. Discussion and action on Office of Retirement Services' proposed timeline and plan for implementing recommendations from the City Auditor's Report, dated April 4, 2024.

**Chair Lee introduced the item. Benjie Chua-Foy, Accounting Division Manager, spoke to the item and answered questions from the Committee. CEO Peña and Barbara Hayman, Deputy Director, assisted in answering questions from the Committee. The Committee requested that ORS add to its response that wire transfers have ceased.**

**A motion was made to approve the Office of Retirement Services' proposed timeline and plan for implementing recommendations from the City Auditor's Report, dated April 4, 2024.**

**Police and Fire Committee Approved. (M.S.C. Ganapati/Lee 2-0-0).**

**Trustee Wilson was absent.**

**FCERS Committee Approved. (M.S.C. Abbott/Jennings 3-0-0).**

- b. Discussion and action to approve amendments to the Police and Fire and Federated Audit Committee Charters to reflect changes regarding the hiring and performance evaluation of the Internal Auditor.

**Chair Avasthy introduced the item. CEO Peña and Counsel Chin spoke to the item and answered questions from the Committee. Trustee Jennings added a few comments. Benjie Chua-Foy, Accounting Division Manager, assisted in answering questions from the Committee.**

**A motion was made to accept amendments to the Police and Fire and Federated Audit Committee Charters with additional direction to make the following changes to be presented to the Boards in redline at their next meetings: replace reference to Comprehensive Annual Financial Report (CAFR) with Annual Comprehensive Financial Report (ACFR) in the Charters, and removing the Vice Chair role from the Committee's operations.**

**Police and Fire Committee Approved. (M.S.C. Lee/Ganapati 2-0-0).**

**Trustee Wilson was absent.**

**FCERS Committee Approved. (M.S.C. Abbott/Jennings 3-0-0).**

• **Proposed Agenda Items**

**The Committee requested that John Flynn, the new CEO, provide his opinion and assessment on the necessity of an Internal Auditor position at ORS and the Committee will meet on October 17, 2024.**

• **Public Comments**

**None.**

• **Adjournment**

The Federated Committee adjourned at 12:50 p.m.

The Police & Fire Committee adjourned at 12:51 p.m.

**Minutes Recorded, Prepared and Respectfully submitted by,**

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**Roberto L. Peña, CEO, Office of Retirement Services**

In accordance with the requirements of AB 2449, the Board of Administration (“Board”) will generally, upon request, provide appropriate aids and services leading to effective communication for individuals with disabilities so they can participate equally in the Board’s meetings, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, vision or other disabilities.

Anyone who requires an auxiliary aid or service for effective communication to participate in a Board meeting should contact the designated contact in Office of Retirement Services as far in advance of the scheduled meeting as possible. The Board strongly encourages individuals with disabilities to endeavor to submit requests for reasonable accommodation no later than five (5) business days before the scheduled meeting, as the Board may not be able to grant requests for reasonable accommodations without sufficient advance notice. The Board strongly encourages individuals with disabilities to submit their written requests via email or regular mail to facilitate tracking and response; however, if the submission of a written request constitutes a hardship, individuals may call the Office of Retirement Services to submit an oral request.

The designated contact in the Office of Retirement Services will endeavor to respond to each request within three (3) business days of receipt of the request. Depending on the request, the designated contact in the Office of Retirement Services may ask to schedule a time to discuss the request (which may occur virtually) to determine the most appropriate auxiliary aid or service, before the request is resolved.

#### **ADA Designated Contact Information**

**Attention: Deputy Director/Chief Operations Officer, Office of Retirement Services**  
**Address: 1737 N First St #600, San Jose, CA 95112**  
**Email: #Retire\_Admin@sanjoseca.gov**  
**Phone: 408-794-1000 (ORS Main Line)**

#### **THE LEVINE ACT**

Senate Bill 1439 (“Levine Act”) amended Government Code Section 84308 and requires disclosure and recusal by a local elected official and some members of boards and commissions if they receive campaign contributions over \$250 from a party, a participant with a financial interest in a proceeding, or their respective agents. The Levine Act was an anti-corruption law intended to curb “pay-to-play” and enhance public trust so that decision-makers can maintain their independence from the influence of donations for political campaigns. SB 1439 expanded the scope from state agency appointees or appointed local officials to include local elected officials. Please visit <https://www.sanjoseca.gov/your-government/appointees/city-clerk/levine-act> for updated forms and information.

