



# BOARD OF ADMINISTRATION

## Meeting Minutes - Final Police & Fire Department Retirement Plan and Health Care Trust

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Monday, March 13, 2023

9:00 AM

1737 N. First St., STE 580, San Jose, CA

95112

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### SPECIAL & HYBRID MEETING

#### Physical Location:

1737 N. First St., STE 580

San Jose, CA 95112

#### Zoom Information:

zoom.us

Dial In: +1 669 900 9128 US (San Jose)

Meeting ID: 979 3400 2069

Pass Code: 726465

*Drew Lanza, Chair, Public Member (Term Expires 4/30/23)*

*Franco Vado, Vice-Chair, Police Retiree Rep (Term Expires 11/30/24)*

*Sunita Ganapati, Trustee, Public Member (Term Expires 11/30/26)*

*Andrew Gardanier, Trustee, Fire Active Rep (Term Expires 11/30/23)*

*David Kwan, Trustee, Public Member (Term Expires 11/30/24)*

*Howard Lee, Trustee, Public Member (Term Expires 11/30/26)*

*Eswar Menon, Trustee, Public Member (Term Expires 11/30/26)*

*Richard Santos, Trustee, Fire Retiree Rep (Term Expires 11/30/26)*

*Dave Wilson, Trustee, Police Active Rep (Term Expires 11/30/25)*

*Pam Foley, City Council Liaison to the Board*

*Harvey Leiderman & Maytak Chin, General and Fiduciary Counsel*

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

**Present:** 6 - Andrew Gardanier, David Kwan, Sunita Ganapati, Dave Wilson, Franco Vado and Richard Santos

**Absent:** 3 - Howard Lee, Drew Lanza and Eswar Menon

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The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met in person at 1737 N. First St., Ste 580 and via Zoom on Monday, March 13, 2023 at 9:00 a.m. Vice-Chair Vado called the Police and Fire Special Board meeting to order at 9:00 a.m. followed by roll call.

Board Members Present: Franco Vado, Andrew Gardanier, David Kwan, Richard Santos, Dave Wilson and Sunita Ganapati.

Chair Drew Lanza and Trustees Howard Lee and Eswar Menon were absent.

Retirement Staff Present: Roberto L. Peña, Barbara Hayman, Linda Alexander, Isela Chaparro, Sandra Castellano, Shilpi Dwivedi, Chris Ha, Khadijah Oneyeiji and Sherrell Aledo.

Also Present: Pam Foley, Council Liaison; Ray Storms, Public Attendee; Stewart McGhee, Public Attendee; and Phil Demers, Public Attendee.

Also Present via Zoom: Maytak Chin and Harvey Leiderman, General and Fiduciary Counsel; Thomas Warren, Public Attendee; Chuck Wall, Public Attendee; Al Gerbino, Public Attendee; Allison Suggs, Public Attendee; Charles Carter, Public Attendee; Wil, Public Attendee; John Emerson, Public Attendee; and Joe Ebisa, With-Intelligence.

## **AGENDA**

### **PUBLIC/RETIREE/GENERAL COMMENTS - Not Related to A Specific Agenda Item**

### **CALL TO ORDER AND ROLL CALL**

Vice-Chair Vado read the following into the record:

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

- As such, all votes will be roll call votes.
- If you are not speaking, please be on mute to cut background noise.
- For discussion items, each trustee will have a turn to speak in roll call order, more than once if desired.
- The public will have an opportunity to speak on each item after trustees.

### **1. AB 2449 REMOTE APPEARANCES(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.

**2. NEW BUSINESS**

- a. Discussion and action to authorize obtaining additional tax analysis regarding SJMC § 3.36.3660.

**CEO Roberto Peña spoke on the item. Mr. Peña shared to the Board the prior legal analysis on this particular muni code SJMC § 3.36.3660. He asked the Board for second opinion and to seek further tax analysis in a timely manner. Counsel Chin also spoke on the magnitude of the tax impact on the affected members.**

**A motion was made authorize obtaining additional independent tax analysis regarding SJMC § 3.36.3660.**

**Approved. (M.S.C. Santos/Wilson 6-0-0) The motion passed unanimously by roll call vote. Chair Lanza and Trustees Lee and Menon were absent.**

- b. Discussion and action on formation of Ad Hoc Committee to address SJMC § 3.36.3660’s impact on disability retirees with Separate Account Alternate Payees.

**Vice-Chair Vado discussed the creation and parameters of a new Ad Hoc committee. Mr. Vado suggested the composition of four members from the Board with two active members, one retiree member and one public member. The Ad Hoc committee would have a limited purpose – to communicate, evaluate and recommend action regarding the application of Municipal Code Section SJMC § 3.36.3660 – and exist for a limited 6 month period. He recommended Trustees Dave Wilson and Andrew Gardanier for the active members of the committee, Trustee Richard Santos as the retiree member and Trustee David Kwan as the public member.**

**A motion was made to approve the formation of an Ad Hoc Committee recommend by Vice**

Chair Vado.

Approved. (M.S.C. Vado/Santos 6-0-0) The motion passed unanimously by roll call vote. Chair Lanza and Trustees Lee and Menon were absent.

- C. Discussion and action to authorize a budget to Ad Hoc Committee on SJMC § 3.36.3660 for committee-related expenses.

CEO Roberto Peña introduced and spoke on the item, and Counsel Leiderman discussed the sufficient budget for the committee legal and related expenses and to give the committee latitude without going back to the Board.

A motion was made to approve a budget of \$50,000 for Ad Hoc Committee related expenses.

Approved. (M.S.C. Santos/Ganapati 6-0-0) The motion passed unanimously by roll call vote. Chair Lanza and Trustees Lee and Menon were absent.

- **PROPOSED AGENDA ITEMS**

None.

- **ADJOURNMENT**

This meeting was adjourned at 9:40 a.m.

\*Estimated

Minutes Recorded, Prepared and Respectfully Submitted by,

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FRANCO VADO, VICE-CHAIR  
BOARD OF ADMINISTRATION  
ATTEST:

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ROBERTO L. PEÑA, CEO  
OFFICE OF RETIREMENT SERVICES