



BOARD OF ADMINISTRATION

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

Monday, March 27, 2023

10:00 AM

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

95113

SPECIAL MEETING

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: 996 3502 2770

Pass Code: 393460

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: 8 - Andrew Gardanier, David Kwan, Sunita Ganapati, Dave Wilson, Franco Vado, Howard Lee, Eswar Menon and Richard Santos

Absent: 1 - Drew Lanza

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 27, 2023 at 10:00 a.m. Vice-Chair Vado called the Police and Fire Special Board meeting to order at 10:02 a.m. followed by roll call.

Board Members Present: Franco Vado, Richard Santos, Howard Lee, Andrew Gardanier, and Dave Wilson.

Trustee Sunita Ganapati joined in-person at 10:02 a.m. and Trustee Eswar Menon joined in-person at 10:48 a.m.

Chair Drew Lanza was absent.

Retirement Staff Present: Barbara Hayman, Sandra Castellano, Isela Chaparro, Shilpi Dwivedi, Chris Ha, Khadijah Oneyeji and Sherrell Aledo.

Also Present: Ray Storms, Public Attendee.

Also Present via Zoom: Roberto Pena, CEO; Pam Foley, Councilmember; Maytak Chin and Harvey Leiderman, General and Fiduciary Counsel; Jenni Krengel, Buchalter; Thomas Warren, Public Attendee; Chuck Wall, Public Attendee; James Morphis, Public Attendee; Charles Carter, Public Attendee; Wil, Public Attendee; Larry, Public Attendee; Steve, Public Attendee; baci1, Public Attendee; Stewert McGehee, Public Attendee; Omar Prieto, Public Attendee; and Kevin Baload, Journalist - WithIntelligence.

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 notified the Board of a “Just Cause” to attend this meeting via teleconference due to an “Emergency Circumstance.”

NONE

- ii. Call for Trustee(s) who wish to notify the Board of a “Just Cause” to attend this meeting via teleconference due to an “Emergency Circumstance.”
- iii. Take action on request(s) for remote appearance.

AGENDA

- CALL TO ORDER AND ROLL CALL

- ORDERS OF THE DAY

Vice-Chair Vado read the following into the record:

A FEW GROUND RULES FOR THIS MEETING

- All votes will be roll call votes.
- If you are attending remotely and 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.

- CLOSED SESSION

The Board entered into Closed Session at 10:05 a.m.

- I. CLOSED SESSION: PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2), SIGNIFICANT EXPOSURE TO LITIGATION.

The Board came out of the Closed Session at 10:33 a.m.

There was no reportable action from Closed Session.

- OPEN SESSION - will reconvene following Closed Session.

Open Session re-convened at 10:35 a.m.

- OPEN SESSION

- II. OPEN SESSION: Discussion and action on interpretation and implementation of SJMC § 3.36.3660 to affected members.

Maytak Chin, General and Fiduciary Counsel, spoke on the item. Counsel Chin explained SJMC § 3.36.3660, which is the provision that divides disability benefits when members have

Domestic Relations Order establishing a separate account for the member's alternate payee(ex-spouse or ex-domestic partner), a SADRO. Harvey Leiderman, General and Fiduciary Counsel, presented the text of SJMC § 3.36.3660 regarding the allocation of disability benefits between the participant and the alternative payee with a separate account. Counsel Leiderman introduced the tax specialist, Jenni Krengel from Buchalter Law Firm who spoke to the item. Counsel Chin and Counsel Leiderman answered questions from the public and the Board. Trustee Wilson presented the recommendation of the Ad Hoc Committee, to adopt the revised interpretation of SJMC § 3.36.3660 as presented by fiduciary and tax counsel, consistent with the Plan's treatment since the adoption of the Code section.

A motion was made to adopt the Ad Hoc Committee's recommendation and to direct staff to take the necessary measure to implementing this interpretation of SJMC § 3.36.3660.

Members of the public and the Board spoke to the motion.

Approved. (M.S.C. Santos/Wilson 8-0-0) The motion passed unanimously by roll call vote. Chair Lanza was absent.

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

- **PROPOSED AGENDA ITEMS**

None.

- **ADJOURNMENT**

The meeting adjourned at 11:10 a.m.

*Estimated

Minutes Recorded, Prepared and Respectfully Submitted by,

FRANCO VADO, VICE-CHAIR
BOARD OF ADMINISTRATION
ATTEST:

ROBERTO L. PEÑA, CEO
OFFICE OF RETIREMENT SERVICES