



# BOARD OF ADMINISTRATION

## Meeting Minutes - Final Joint Governance Committee

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Monday, January 29, 2024

10:30 AM

1737 N. 1st St. Suite 580, San Jose, CA  
95112

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### HYBRID MEETING

#### PHYSICAL LOCATION:

1737 North First Street, Suite 580  
San Jose, Ca 95112

#### ZOOM INFORMATION:

zoom.us  
Dial In: +1 669-219-2599 US (San Jose)  
Meeting ID: 996 1272 0085  
Pass Code: 569995

#### **POLICE & FIRE COMMITTEE MEMBERS**

*Franco Vado, Chair*  
*David Kwan, Trustee*  
*Richard Santos, Trustee*

#### **FEDERATED COMMITTEE MEMBERS**

*Mark Linder, Chair*  
*Debbie Abbott, Trustee*  
*Prachi Avasthy, Trustee -- 88 South 4th Street, Suite 130, San José, CA 95112*

#### **COUNSEL**

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

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

**Present** 6 - Richard Santos, Franco Vado, David Kwan, Mark Linder, Debbie Abbott,  
and Prachi Avasthy

The Joint Governance Committee met in person at ORS, 1737 N. First St., Suite 580, San Jose, CA 95112 and via Zoom on Monday, January 29, 2024. The Police and Fire Governance Committee meeting was called to order at 10:33 a.m. by Chair Vado. The Federated Governance Committee meeting was called to order at 10:33 a.m. by Chair Linder followed by roll call.

**Board Members Present:** Franco Vado, David Kwan, Richard Santos, Mark Linder and Deborah Abbott.

**Board Members Present via Zoom utilizing the Traditional Brown Act teleconferencing rules:** Prachi Avasthy. Chair Linder questioned Trustee Avasthy on whether she met the qualifications to teleconference under the Brown Act, and Trustee Avasthy responded in the affirmative. Trustee Avasthy was qualified to participate under the Traditional Brown Act teleconferencing rules.

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

**Also Present:** Maytak Chin, General and Fiduciary Counsel; and Valter Viola, Cortex Consulting, Inc.

**Also Present via Zoom:** Cheryl Parkman, OER; and Paul Soto, Public Attendee.

**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.

- **Call to Order and Roll Call**

- **Orders of the Day**

Chair Vado read the following into the record:

**A FEW GROUND RULES FOR THIS MEETING**

- All FCERS votes will be roll call votes.
- 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:**

- None.

## **JOINT AGENDA**

### **1. Consent Calendar**

- a. Approval of the Minutes of the Governance Committee meeting from November 27, 2023.

A motion was made to approve the Consent Calendar.

Police and Fire Committee Approved. (M.S.C. Santos/Kwan 3-0-0).

FCERS Committee Approved. (M.S.C. Abbott/Linder 2-1-0). The motion passed by roll call vote.  
Aye: Abbott, Linder. Abstain: Avasthy.

Paul Soto, member of the public, made a public comment immediately after the Committees voted on the Consent Calendar.

### **2. Old/Deferred Business**

- a. Discussion and action on proposed Board's policy on contracting and procurement for ORS operations.

Counsel Chin introduced this item. Valter Viola, Cortex Consulting Inc., presented the proposed Board's policy on contracting and procurement and answered questions from the Committee. Counsel Chin and CEO Peña assisted with answering questions from the Committee.

After a lengthy discussion, a motion was made to approve the delineation between when to

follow City Policy and when to follow the Board's Policy for ORS operations regarding contracting and procurement issues, as stated on pages 3-4 of Attachment 2(a)(2) to the Agenda.

Police and Fire Committee Approved. (M.S.C. Santos/Kwan 3-0-0).

FCERS Committee Approved. (M.S.C. Abbott/Avasthy 3-0-0). The motion passed by roll call vote.

The Committee instructed Cortex to further refine the proposed Board's policy on contracting and procurement for ORS operations to incorporate the comments and directions from the Committee for presentation to the Committee at its next Joint Governance Committee meeting.

- b. Discussion and action on proposed Board's policy on oversight and monitoring of contractors.

Valter Viola, Cortex Consulting Inc., presented the proposed policy on oversight and monitoring of contractors.

No action was taken. This item was deferred to the next meeting.

- c. Discussion and action on Board's policy on travel issues for trustees.

Counsel Chin presented the proposed Board's policy on educational travel for trustees and answered questions from the Committee.

After discussion, this item was deferred to the next meeting pending requested changes to the policy.

### **3. New Business**

- a. Discussion and action on adoption of City Policies.

Counsel Chin presented the recommended adoption of City Policies and answered questions from the Committee and Barbara Hayman, Deputy Director. CEO Peña, Benjie Chua-Foy, Division Manager, and Cheryl Parkman, OER, said a few comments.

A motion was made to recommend to the Boards to approve only the policies that Counsel recommended to adopt that did not require any further clarification or modifications, as presented in the matrix provided as Attachment 3a to the Agenda.

Police and Fire Committee Approved. (M.S.C. Santos/Kwan 3-0-0).

FCERS Committee Approved. (M.S.C. Abbott/Avasthy 3-0-0). The motion passed by roll call vote.

The Committee directed Counsel: (1) to implement the recommended clarifications and modifications stated in the matrix provided as Attachment 3a to the Agenda for the remaining policies, and (2) present revised versions of the remaining City policies at the next Committee meeting.

- **Proposed Agenda Items**

None.

**Adjournment**

The meeting adjourned at 12:46 p.m.

**ADA ALERT**

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.

Minutes Recorded, Prepared and Respectfully submitted by,

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