



BOARD OF ADMINISTRATION

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

Thursday, June 2, 2022

8:30 AM

MEETING TO BE HELD BY ZOOM CONFERENCE IN LIEU OF PHYSICAL LOCATION

zoom.us

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

Meeting ID: 918 7456 3918

Password: 796913

Drew Lanza, Chair, Public Member (Term Expires 4/30/23)
Andrew Gardanier, Vice-Chair, Fire Active Rep (Term Expires 11/30/23)
Sunita Ganapati, Trustee, Public Member (Term Expires 11/30/22)
David Kwan, Trustee, Public Member (Term Expires 11/30/24)
Howard Lee, Trustee, Public Member (Term Expires 11/30/22)
Eswar Menon, Trustee, Public Member (Term Expires 11/30/22)
Richard Santos, Trustee, Fire Retiree Rep (Term Expires 11/30/22)
Franco Vado, Trustee, Police Retiree Rep (Term Expires 11/30/24)
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

The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met via zoom on Thursday, June 2, 2022 at 8:30 a.m. Chair Drew Lanza called the Pension Plan and Health Care Trust meeting to order at 8:32 a.m. followed by roll call.

Trustee Santos departed the meeting at 9:57 a.m. and returned at 10:28 a.m.

Retirement Staff Present via Teleconference: Roberto L. Peña, Prabhu Palani, Barbara Hayman, Jay Kwon, Ron Kumar, Dhinesh Ganapathiappan, Christina Wang, Arun Nallasivan, Ellen Lee, Eric Tsang, David Aung, Julie He, Deborah Sattler, Sandra Castellano, Houman Boussina, Marti Zarate, Linda Alexander and Michelle San Miguel.

Also Present via Teleconference: Harvey Leiderman, General and Fiduciary Counsel; Maytak Chin, General and Fiduciary Counsel; Mariah Fairley, Reed Smith; Lori Anastasiou, Court Reporter; Denise Eaton-May, Attorney; Laura Wirick, Meketa Investment Group; Kaci Boyer, Neuberger Berman; Pam Foley, City Council Liaison; Stephen Gallagher, Public Attendee; Joe Ebisa, Journalist; Isidro Bagon, Public Attendee; Ray Storms, Retiree Assoc. President; Don Bartels, SJPOFF; Prachi Avasthy, Public Attendee; Julie Jennings, Public Attendee; Mark Keleher, Public Attendee.

AGENDA

CALL TO ORDER AND ROLL CALL

CLOSED SESSION

CLOSED SESSION AGENDA ITEMS WILL BE HEARD AT 8:30 A.M.

I. CLOSED SESSION NEW BUSINESS

The Board entered into Closed Session at 8:34 a.m.

- A. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION: SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2): ONE CASE.

The Board came out of Closed Session at 9:57 a.m.

OPEN SESSION - will reconvene following Closed Session, estimated to be 9:15 a.m. or soon thereafter

The Board reconvened into Open Session at 10:02 a.m. There was no reportable action out of Closed Session.

• ORDERS OF THE DAY

Chair Lanza read the following Orders of the Day into the record:

- All votes will be roll call votes.
- If you are not speaking, please be on mute to cut background noise.

- We run great, open meetings. But we need a different etiquette. Do not interrupt a presenter. Take notes and ask later during the comment period.
- If necessary, there will be a hard recess from 1:00pm -1:05pm to accommodate Civic Center TV's broadcasting process.
- Board Members please stay on this Zoom meeting call after the Regular meeting ends – The public special meetings for each Committee to address California Assembly Bill No. 361 will take place using the same Zoom meeting ID and password. There is also a Joint Audit Committee Meeting, which will be the last meeting of the day.
- Change to Agenda - Item 3a will be time certain at 10:30 a.m. or soon thereafter

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

None.

1. CONSENT CALENDAR

A motion was made to approve the Consent Calendar.

Approved. (M.S.C. Gardanier/Wilson 8-0-0) The motion passed unanimously by roll call vote. Trustee Santos was not present for the vote.

1.1 Approval Of Minutes

- a. Approval of the Board Minutes of May 5, 2022.

1.2 Approval Of Travel for Conferences and Due Diligence

- a. Prabhu Palani, CIO
- Meketa West Coast Gathering 2022, Westin Carlsbad Resort, Carlsbad, CA, May 16, 2022.
 - Lightspeed 2022 Annual Meeting, Estate Yountville, Yountville, CA, June 7 - June 8, 2022.

1.3 Return of Contributions

- a. Voluntary/Involuntary. - None.

1.4 Communication/Information

- a. Police and Fire Retirement System Dashboard.

b. **Educational Travel Reports:**

- Pension Bridge Annual, Westin St. Francis, San Francisco, CA - April 18 - 20, 2022 - by

Howard Lee.

1.5 Notice of Alternate Payee Benefit Election

- a. Approval of Alternate Payee Benefit election of Unreduced Lifetime Monthly Payment Option to be paid to Mary Ann Fiedler, ex-spouse of Police Officer, **Jeff Fiedler** to be effective May 2, 2022 under Part 17, Section 3.36.3600 of the San Jose Municipal Code.
- b. Approval of Alternate Payee Benefit election of Reduced Lifetime Monthly Payment Option to be paid to Lisa Strasen, ex-spouse of retired Police Officer, **Omar R. Prieto** to be effective May 12, 2022 under Part 17, Section 3.36.3600 of the San Jose Municipal Code.

1.6 Education and Training

- a. The Cortex Report - May 2022, Conferences, Seminars and Educational Programs.

2. INVESTMENTS

- a. Oral update by CIO, Prabhu Palani.

CIO Palani updated the Board on the following:

- For FYTD as of May 31, 2022 the Pension Plan was down approximately 1.39%
- For FYTD as of May 31, 2022 the Health Care Trust was down approximately 5.75%.

- b. Presentation of Calendar 4th Quarter 2021 private equity report by Neuberger Berman.

CIO Palani introduced Kaci Boyer, Neuberger Berman, who presented the calendar 4th Quarter 2021 Private Equity report and answered questions from the Board.

- c. Presentation of Calendar 4th Quarter 2021 private markets report by Meketa Investment Group.

CIO Palani introduced Laura Wirick, Meketa Investment Group, who presented the calendar 4th Quarter 2021 Private Markets report and answered questions from the Board.

- d. Presentation of Calendar 1st Quarter 2022 performance report for Pension Plan by Meketa Investment Group.

Laura Wirick, Meketa Investment Group, presented the Calendar 1st Quarter 2022 Performance reports for the Pension Plan and answered questions from the Board. Ms. Wirick reported that the value of the City of San Jose Police & Fire Department Retirement Plan's assets was \$4.8 billion on March 31, 2022, compared to \$5.0 billion as of the end of the prior quarter. The Plan had net cash outflows of \$60 million and investment losses of \$131 million during the quarter.

- e. Presentation of Calendar 1st Quarter 2022 performance report for Health Care Trust by Meketa Investment Group.

Laura Wirick, Meketa Investment Group, presented the Calendar 1st Quarter 2022 Performance reports for the Health Care Trust and answered questions from the Board. Ms. Wirick reported that the value of the City of San Jose Police and Fire Department Retirement Plan Health Care Trust's assets was \$273.5 million on March 31, 2022, compared to \$283.4 million the end of the prior quarter. The Trust had net cash outflows of \$1.1 million and an investment loss of \$8.8 million in the 3-month period.

3. OLD BUSINESS CONTINUED-DEFERRED ITEMS

- a. Discussion and action on whether to apply SJMC § 3.36.830 for the cancellation and termination of member Stephen B. Gallagher's retirement allowance due to felony conviction. (*Continued from the May 5, 2022 meeting*) (Time Certain: 9:30 a.m. or soon thereafter)

Chair Lanza introduced the item for discussion and provided a brief summary on the procedures for the hearing. Counsel Chin noted that Ms. Anastasiou, the Court Reporter, was present to document the proceedings as well as swear in witnesses for testimony if necessary. Member Stephen Gallagher was present and represented by attorney Denise Eaton May. Counsel Chin stated that the Board had been updated on the matter in Closed Session. Ms. Chin advised the Board that the parties have reached a consensual agreement, and further advised on the procedure to withdraw the pending motion related to this Item made at the May 5, 2022 Board meeting by Chair Lanza and seconded by Trustee Santos, which was tabled to the June 2, 2022 meeting for discussion and a vote. Chair Lanza withdrew his pending motion from the May 5, 2022 meeting, with Trustee Santos withdrawing his second to the motion. Counsel Chin presented the terms of a proposed settlement agreement:

- 1) 10% reduction in the member's monthly retirement allowance, to commence in October 2022, continuing until his demise
- 2) No 'Claw back' or repayment of any past years' allowances previously paid to member
- 3) All future COLAs remain intact for the member lifetime
- 4) Full mutual release of claims, with a covenant not to sue
- 5) No impact on Survivor Benefits and death benefits under law
- 6) Written settlement agreement consistent with these terms to be completed by July 1, 2022

Following a lengthy discussion, a motion was made to accept the terms of the proposed settlement agreement and to authorize Counsel to finalize a written settlement agreement that reflected these terms, and to authorize the CEO to execute the settlement agreement on behalf of the Board and Plan.

Approved. (M.S.C. Lanza/Santos 9 0 0) The motion passed unanimously by roll call vote.

4. NEW BUSINESS

- a. Oral update from the CEO of Retirement Services, Roberto L. Peña.

CEO Peña updated the Board on the following:

- Final Medicare Part-B reimbursements completed in May.
- Quarterly Medicare Seminars are to begin being offered by ORS beginning in August 2022 in partnership with Kaiser.
- City re-instated Mandatory Masking in City Facilities.
- The ORS office is open from 9-4 daily; appointments are strongly encouraged.
- ORS's off-site, annual picnic will be in person and taking place June 10th.
- The ORS office will be closed on June 20th in observance of Juneteenth and July 4th in observance of Independence Day.
- The City's budget will be approved at the June 14th City Council meeting.
- Staff will be conducting interviews for the vacant Accounting Clerk position next week.
- Friendly reminder for Trustees traveling on behalf of the Plan: Please notify admin staff so that they can coordinate travel and assure compliance with Board policies.

- b. Oral update from the City Council Liaison to the Board.

Councilwoman Foley updated the Board on pending matters before the Council.

- c. Discussion and action on authorizing the CEO to negotiate and execute a Third Amendment to the agreement with MedLink, an independent medical examiner (IME) for applicant examinations, to amend the rate schedule to amend the rates from \$500 per hour to a maximum of \$850 per hour.

Barbara Hayman, Deputy Director, spoke to the item and answered questions from the Board. CEO Peña provided background on the disability process. Staff recommended authorizing the CEO to negotiate and execute a third amendment to the contract between the Board and MedLink for IME services.

A motion was made to authorize the CEO to negotiate and execute a Third Amendment to the agreement with MedLink, an independent medical examiner (IME) for applicant examinations, to amend the rate schedule to amend the maximum rate from \$500 per hour to a maximum of \$850 per hour.

Approved. (M.S.C. Lanza/Santos 9-0-0) The motion passed unanimously by roll call vote.

- d. Discussion and action on authorizing the CEO to negotiate and execute a Third Amendment to the agreement with ExamWorks, an independent medical examiner (IME) for disability retirement applicant examinations, to amend the rates from a maximum of \$700 per hour to a maximum of \$850 per hour.

Ms. Hayman, Deputy Director, spoke to the item and answered questions from the Board. Staff recommended authorizing the CEO to negotiate and execute a third amendment to the contract between the Board and ExamWorks for IME services.

A motion was made to authorize the CEO to negotiate and execute a Third Amendment to the agreement with ExamWorks, an independent medical examiner (IME) for disability retirement applicant examinations, to amend the rates from a maximum rate of \$700 per hour to a maximum rate of \$850 per hour.

Approved. (M.S.C. Lanza/Santos 9-0-0) The motion passed unanimously by roll call vote.

- e. Discussion and action to authorize the expenditure of funds for Work Health Solutions (WHS)

after June 30, 2022, within the approved budget.

Ms. Hayman, Deputy Director, spoke to the item and answered questions from the Board. Per the terms of the contract, ORS will be continuing the agreement on a month-to-month basis following the expiration of the term on June 30, 2022 to allow time for staff to fully evaluate WHS performance and determine appropriate next steps for the term of contract. Currently, no additional compensation beyond the initial amount is necessary for the agreement.

A motion was made to authorize the expenditure of funds for month-to-month services from Work Health Solutions (WHS) after June 30, 2022, within the existing approved budget.

Approved. (M.S.C. Lanza/Santos 9-0-0) The motion passed unanimously by roll call vote.

- f. Discussion on kicking off the new Performance Review Process for this year for the evaluations of CEO and CIO this month.

Chair Lanza spoke to the item and explained the CEO/CIO Performance Review Process. Chair Lanza encouraged Trustees to provide feedback on the process to Valter Viola, Cortex Consulting, for future process improvements.

- g. Discussion and action on factual findings for use of California Assembly Bill 361's abbreviated teleconferencing procedures.

Counsel Chin introduced and spoke to the item. Ms. Chin explained the contents of the memo submitted to the Board regarding evidentiary support for the Board's consideration of factual findings necessary for election to adopt AB 361's abbreviated teleconferencing procedures, which included:

- (1) Governor's proclamation on the continued state of emergency due to the ongoing COVID-19 pandemic; and
- (2) the City Council's recent resolution that continued to impose and recommend social distancing in City facilities.

A motion was made to adopt these as the Board's factual findings under AB361 to allow the Board to continue meeting virtually for the next 30 days.

Approved. (M.S.C. Lanza/Santos 9-0-0) The motion passed unanimously by roll call vote.

5. RETIREMENTS

5.1 Service Retirements

Chair Lanza read the Service Retirements into the record.

A motion was made to approve the Service Retirements.

Approved. (M.S.C. Santos/Wilson 9-0-0) The motion passed unanimously by roll call vote.

- a. **Isidro L. Bagon, Jr.**, Police Sergeant, Police Department, effective July 23, 2022; 25.29* years of service. (*With Reciprocity - CSJ YOS 21.94 + 3.35 PERS YOS*)

- b. **Jeff Lowrimore**, Fire Engineer, Fire Department, effective July 9, 2022; 26.40* years of service.
- c. **Charles E. Mathis**, Police Sergeant, Police Department, effective July 23, 2022; 25.38* years of service.
- d. **Stanley C. McFadden**, Deputy Chief, Police Department, effective May 28, 2022; 28.80* years of service.
- e. **John A. Ureta**, Fire Engineer, Fire Department, effective April 29, 2022; 23.39* years of service.

5.2 **Deferred Vested**

Chair Lanza read the Deferred Vested Retirement into the record.

A motion was made to approve the Deferred Vested Retirement.

Approved. (M.S.C. Santos/Wilson 9-0-0) The motion passed unanimously by roll call vote.

- a. **Stephen J. Corbin**, Police Officer, Police Department, effective June 16, 2022; 13.14* years of service.
- b. **Erin D. Fong**, Police Sergeant, Police Department, effective July 10, 2022; 25.45* years of service. *(With Reciprocity - CSJ YOS 20.53 + 4.91 PERS YOS)*
- c. **Jason H. Ta**, Police Captain, Police Department, effective June 28, 2022; 25.49* years of service.

6. **DEATH AND SURVIVORSHIP NOTIFICATIONS (Moment of Silence)**

The Chair read the Death Notifications into the record and asked for a moment of silence for those who served and passed away. Trustee Vado, Trustee Gardanier and Trustee Santos said a few kind words.

- a. Notification of the death of **Richard Confer**, Sergeant, retired May 8, 2000, died April 18, 2022. No survivorship benefits.
- b. Notification of the death of **Brian Johst**, Police Lieutenant, retired November 14, 2020, died April 5, 2022. Survivorship benefits to Summer Johst and Jenna Johst, Spouse and child respectively.
- c. Notification of the death of **James A. Leroy**, Police Officer, retired December 3, 1986, died

April 15, 2022. Survivorship benefits to Carolyn Leroy, Spouse.

- d. Notification of the death of **Edward Schneickert**, Fire Inspector, retired April 2, 1985, died April 2, 2022. Survivorship benefits to Margo Schneickert, Spouse.
- e. Notification of the death of **Kenneth J. Siegel**, Police Officer, retired June 17, 2017, died May 12, 2022. Survivorship benefits to Janel L. Siegel, Spouse.
- f. Notification of the death of **Richard Yuhas**, Police Officer, retired April 15, 2000, died April 2, 2022. Survivorship benefits to Mary Jo Yuhas, Spouse.

7. COMMITTEE MINUTES, REPORTS and RECOMMENDATIONS

7.1 Investment Committee (Menon - CH/Gardanier/Lanza/Lee)

Last Meeting: May 5, 2022 (Special) Next Meeting: June 2, 2022 (Special) June 21, 2022 (Regular)

- a. Oral update from the Chair of the Investment Committee.

Chair Menon reported that the AB361 findings were adopted by the Committee at the last Special Meeting. The IC will meet in late June.

- b. Minutes of the Special Investment Committee meeting from March 30, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

- c. Minutes of the Special Investment Committee meeting from April 7, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

7.2 Audit/Risk Committee (Ganapati-CH/Lee/Wilson)

Last Meeting: May 5, 2022 (Special) Next Meeting: June 2, 2022 (Regular - Joint meeting)

- a. Oral update from the Chair of the Audit/Risk Committee.

Chair Ganapati reported that the AB361 findings were adopted by the Committee at the last Special Meeting. The Joint Audit Committee will meet after the Board meeting.

- b. Minutes of the Special Audit/Risk Committee meeting from March 30, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

- c. Minutes of the Special Audit/Risk Committee meeting from April 7, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

7.3 Governance Committee (Vado - CH/ Ganapati/Santos)

Last Meeting: May 5, 2022 (Special) Next Meeting: June 2, 2022 (Special) June 16, 2022 (Regular - Joint meeting)

- a. Oral update from the Chair of the Governance Committee.

Chair Vado reported that the AB361 findings were adopted by the Committee at the last Special Meeting.

- b. Minutes of the Special Governance Committee meeting from March 30, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

- c. Minutes of the Special Governance Committee meeting from April 7, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

7.4 Disability Committee (Santos - CH/Lanza - Alts: Menon/Vado)

Last Meeting: May 5, 2022 (Special) Next Meeting: June 2, 2022 (Special) June 6, 2022 (Regular)

- a. Oral update from the Chair of the Disability Committee.

Chair Santos reported that the AB361 findings were adopted by the Committee at the last Special Meeting. He also reported that the June 6, 2022 meeting was cancelled.

- b. Minutes of the Special Disability Committee meeting from March 30, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

- c. Minutes of the Special Disability Committee meeting from April 7, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

7.5 Joint Personnel Committee (Gardanier/Lanza/Menon)

Last Meeting: March 4, 2022 (Regular) Next Meeting: TBD

- a. Oral update from the Chair of the Joint Personnel Committee.

There was no update.

- **PROPOSED AGENDA ITEMS**

None.

- **ADJOURNMENT**

Next Meeting: August 4, 2022

The meeting adjourned at 11:44 a.m.

*Estimated

Minutes Recorded, Prepared and Respectfully Submitted by,

DREW LANZA, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

ROBERTO L. PEÑA, CEO
OFFICE OF RETIREMENT SERVICES