



BOARD OF ADMINISTRATION

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

Thursday, August 4, 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: 915 9312 3728

Password: 075995

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

Present: 9 - Eswar Menon, Andrew Gardanier, David Kwan, Howard Lee, Andrew Lanza,
Richard Santos, Sunita Ganapati, Dave Wilson and Franco Vado

The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met via zoom on Thursday, August 4, 2022 at 8:30 a.m. Chair Drew Lanza called the Pension Plan and Health Care Trust meeting to order at 8:33 a.m. followed by roll call.

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, Natasha Kumaraswami, Shilpi Dwivedi, Sandra Castellano, Benjie Chua-Foy, Marti Zarate, Linda Alexander and Michelle San Miguel.

Also Present via Teleconference: Harvey Leiderman, General and Fiduciary Counsel;
Maytak Chin, General and Fiduciary Counsel; Laura Wirick, Meketa Investment Group;
Pam Foley, City Council Liaison; Gary Johnson, 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 INVESTMENTS

The Board entered into Closed Session at 8:35 a.m.

- A. CLOSED SESSION:** PURSUANT TO GOVERNMENT CODE SECTION 54956.81, TO CONSIDER PURCHASE OR SALE OF PARTICULAR, SPECIFIC PENSION FUND INVESTMENTS (ONE INVESTMENT).

II. CLOSED SESSION NEW BUSINESS

- A. CLOSED SESSION:** CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION: SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2): ONE CASE.
- B. CLOSED SESSION:** PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957(b)(1). Position: Chief Executive Officer
- C. CLOSED SESSION:** PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957(b)(1). Position: Chief Investment Officer

The Board came out of Closed Session at 10:40 a.m.

OPEN SESSION - will reconvene following Closed Session, time certain 10:30 a.m. or soon thereafter

Open Session reconvened at 10:41 a.m.

Counsel Leiderman reported that in closed session that the Board voted to designate Drew Lanza as Labor Negotiator for the CEO position and to designate Eswar Menon as Labor negotiator for the CIO position.

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

• **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.

Waive Sunshine (Attachment received late):

- 4h - Discussion and action on factual findings for use of California Assembly Bill 361's abbreviated teleconferencing procedures.

A motion was made to waive Sunshine on the attachment for 4h.

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

• **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. Santos/Wilson 8-0-0) The motion passed unanimously by roll call vote.
Trustee Menon did not vote.

1.1 Approval Of Minutes

- a. Approval of the Board Minutes of June 2, 2022.
- b. Approval of the Board Minutes for the July 1, 2022 Special Meeting.

1.2 Approval Of Travel for Conferences and Due Diligence

- a. Roberto L. Peña, CEO
 - CalAPRS Virtual Administrators Roundtable - June 24, 2022.

- b. Prabhu Palani, CIO
 - All & III Pan Institutional Roundtable, Metropolitan Club, New York City, September 13, 2022 - September 14, 2022.
- c. Sunita Ganapati, Trustee
 - Pension Bridge Annual, Westin St. Francis, San Francisco, CA - April 18 - 20, 2022.
- d. David Kwan, Trustee
 - CalAPRS Principles of Pension Governance, The Lodge at Tiburon, Tiburon, CA - August 29, 2022 - September 1, 2022.

1.3 Return of Contributions

- a. Voluntary/Involuntary. - None.

1.4 Communication/Information

- a. Police and Fire Retirement System Dashboard.
- b. Mayor's June Budget Message for Fiscal Year 2022-2023.
- c. ORS's Quarterly Newsletter - The Retirement Connection: July 2022 Edition.
- d. Report of the Budget vs. Actual Expenses for 3rd Quarter FY 21-22. Receive and file.
- e. Report of the Plan Expenses for March, April and May 2022. Receive and file.

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 Siv T. Langlo, ex-spouse of Police Lieutenant, **Gregory Lombardo** to be effective November 16, 2022 under Part 17, Section 3.36.3600 of the San Jose Municipal Code.

1.6 Report out of Closed Session

- a. Report out of Closed Session from the October 3, 2019, April 1, 2021, January 6, 2022 and February 3, 2022 Board Meetings.

1.7 Education and Training

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

2. INVESTMENTS

- a. Oral update by CIO, Prabhu Palani.

CIO Palani and Investment Staff Jay Kwon updated the Board on the following:

- At the end of the last Fiscal Year, the Pension Plan was down 5%.
- At the end of the last Fiscal Year, the Health Care Trust was down 9.5%.
- The negative returns were somewhat mitigated by re-balancing made by the Investment team as well as a strong month of July.
- As of August 3, 2022 the Pension Plan was up 3.5%.
- As of August 3, 2022 the Health Care Trust was up 4%.
- The City elected to prefund its contributions and the amounts were deployed based on the Board's asset allocations.

3. OLD BUSINESS CONTINUED-DEFERRED ITEMS

- a. Oral report out of Closed Session from the June 2, 2022 Police and Fire Board Meeting - Settlement with Stephen Gallagher regarding SJMC 3.26.830.

Counsel Chin reported out of Closed Session from the June 2, 2022 Board Meeting with the following:

“Effective July 7, 2022, the Plan and member Stephen Gallagher entered into a written Settlement Agreement, regarding action to be taken due to the member’s conviction of a felony in 2005. The Agreement essentially provides for the member’s current monthly allowance to be reduced for the rest of his life by 10%, based on the facts and circumstances presented to the Board at the May meeting. The member has also waived and released any and all claims against the Plan arising out of the Board’s action under the Municipal Code.”.

- b. Discussion and action on whether to apply SJMC § 3.36.830 for the cancellation and termination of member Kenneth E. Williams’ retirement allowance due to felony conviction. *(Deferred from the May 5, 2022 Board meeting at the member’s request)*

This item was deferred at the member's request, with instructions to counsel to meet and confer on a date and time certain for the Board to hear the matter.

4. NEW BUSINESS

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

CEO Peña updated the Board on the following:

- 4 Trustee seats will be open after 11/30/2022. Staff is requesting interested Trustees to reapply as soon as possible.
- The Government Finance Officers' Association (GFOA) award was given to ORS again this year for excellence in financial reposting. Congratulations to Accounting staff.
- Staffing update: New Account Clerk, Chris Reyes has joined ORS. Jesselle Holcomb has returned to ORS as a Benefits Analyst. Staff continues to work to fill Benefit vacancies.
- The City has extended its mandatory Masking policy in City facilities until August 26, 2022. The City is encouraging Boards/Commissions/Committees to continue to meet virtually.
- ORS Summer Picnic was held in-person, in June; thanked Summer Picnic Committee for their hard work.
- The Quarterly Newsletter was distributed in July.
- The ORS office will be closed September 5, 2022 in Observance of Labor Day.

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

Councilmember Foley had no report on pending matters before the Council, as Council was just returning from being dark for the month for July.

- c. Discussion on new Performance Review Process for the CEO/CIO position.

Chair Lanza spoke to the item and answered questions from the Board.

- d. Discussion and action regarding the reallocation of \$31,000 from the personnel expenses category and \$14,000 from the non-personnel/equipment category for a total amount of \$45,000 to cover the shortfall in the professional services category for the FY21-22 Administrative budget amount.

Benjie Chua-Foy, Accounting Manager, spoke to the request before the Board and answered questions. Ms. Chua-Foy explained that the request was due to the Plan being over budget in a few areas, which included legal services, actuarial services and temporary staffing services, as outlined in detail in the attached memo to the posted agenda.

A motion was made to approve the reallocation of \$31,000 from the personnel expenses category and \$14,000 from the non-personnel/equipment category for a total amount of \$45,000 to cover the shortfall in the professional services category for the FY21-22 Administrative budget amount.

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

- e. Update on Cheiron's projections based on preliminary investment returns for FY 21-22.

Bill Hallmark, Cheiron, Inc., spoke to the projections based on preliminary investment returns for Fiscal Year 2021-2022 and answered questions from the Board.

- f. Discussion and action on Committee Assignments.

Chair Lanza led the discussion on the Committee assignments and proposed the following change: Trustee Sunita Ganapati will take Chair Lanza's place on the Investment Committee.

A motion was made to approve Sunita Ganapati replacing Drew Lanza on the Investment Committee.

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

- g. Discussion on the topics for the Joint Meeting of the Boards and City Council.

CEO Peña and Cheryl Parkman, OER, spoke to the item and provided a brief background on the history of the Joint Meetings of the Board and City Council. After a suggestion by City Council Liaison Foley to hold the meeting after October 2022 due to changes in the City Council/Mayor makeup, the Board directed Staff to work with Cheryl Parkman and both Boards Council Liaisons to pursue a better time to hold the Joint meeting of the Boards' and City Council.

- h. 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. Counsel 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) As a result of proclaimed state of emergency, meeting in person would present imminent risks to the health and safety of attendees due to the current situation with COVID19 because the CDC has rated Santa Clara County's community level for COVID-19 as high.

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. Santos/Gardanier 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/Vado 9-0-0) The motion passed unanimously by roll call vote.

- a. **David R. Anaya**, Police Lieutenant, Police Department, effective August 6, 2022; 26.84* years of service.
- b. **Daniel P. Anderson**, Police Officer, Police Department, effective August 20, 2022; 26.87* years of service.

- c. **Paulo M. Brito**, Fire Engineer, Fire Department, effective August 6, 2022; 28.40* years of service. *(With Reciprocity - 20.74 CSJ YOS + 7.65 PERS YOS)*
- d. **Corey Green**, Police Officer, Police Department, effective September 3, 2022; 26.13* years of service.
- e. **Shane Lueddeke**, Police Officer, Police Department, effective August 20, 2022; 26.84* years of service.
- f. **Jeffrey P. Riley**, Fire Captain, Fire Department, effective September 4, 2022; 26.61* years of service.
- g. **Randall Brian Schriefer**, Police Captain, Police Department, effective August 6, 2022; 27.05* years of service. *(With Reciprocity - 23.45 CSJ YOS + 3.60 PERS YOS)*
- h. **Bryan J. Wong**, Firefighter, Fire Department, effective July 24, 2022; 28.92* years of service. *(With Reciprocity - 27.51 CSJ YOS + 1.41 PERS YOS)*

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. **Lamont J. Cusseaux**, Police Sergeant, Police Department, effective August 12, 2022; 27.97* years of service. *(With Reciprocity - 19.76 CSJ YOS + 8.20 PERS YOS)*

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 **Robert Hollars**, Police Lieutenant, retired January 8, 1992, died June 22, 2022. Survivorship benefits to Valerie Hollars, Spouse.
- b. Notification of the death of **Eduardo E. Medina**, Fire Engineer, retired March 18, 2000, died May 7, 2022. Survivorship benefits to Connie Medina, Spouse.

7. COMMITTEE MINUTES, REPORTS and RECOMMENDATIONS

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

Last Meeting: July 29, 2022 (Special) Next Meeting: August 4, 2022 (Special), August 24, 2022 (Regular)

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

Chair Menon spoke to the contents of the last regular Investment Committee meeting.
- b. Minutes of the April 26, 2022 Police and Fire Investment Committee meeting. Receive and file.

This Committees/Reports/Recommendations was received and filed.
- c. Minutes of the Special Investment Committee meeting from May 5, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

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

Last Meeting: July 29, 2022 (Special) Next Meeting: August 4, 2022 (Special), August 18, 2022 (Regular)

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

Chair Ganapati and CEO Peña recapped the last Joint Audit Committee meeting held in June 2022 after the Police & Fire Board meeting.
- b. Minutes of the February 17, 2022 Joint Audit Committee meeting for the Federated City Employee's Retirement System and the Police and Fire Retirement Plan. Receive and file.

This Committees/Reports/Recommendations was received and filed.
- c. Minutes of the Special Police and Fire Audit Committee meeting from May 5, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.
- d. 1/1/22 - 3/31/22 Quarterly Travel and attendance for Police & Fire. Receive and file.

This Committees/Reports/Recommendations was received and filed.
- e. Update on the City Auditor's Recommendation to the Office of Retirement Services. Receive and

file.

This Committees/Reports/Recommendations was received and filed.

- f. Report on the Reconciliation of Contributions Audit by Internal Auditor, Houman Boussina. Receive and file.

This Committees/Reports/Recommendations was received and filed.

- g. Discussion and action on the Committees' recommendation to approve the FY 21-22 Office of Retirement Services Plans Audit Plan by Grant Thornton.

CEO Peña spoke to this item.

A motion was made to approve the FY 21-22 Office of Retirement Services Plans Audit Plan by Grant Thornton.

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

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

Last Meeting: July 29, 2022 (Special) Next Meeting: August 4, 2022 (Special), September 1, 2022 (Regular)

- 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 May 5, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

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

Last Meeting: July 29, 2022 (Special) Next Meeting: August 4, 2022 (Special), August 8, 2022 (Regular)

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

Chair Santos reported that the Committee would meet on Monday, August 8, 2022 for a regular meeting.

- b. Minutes of the Special Disability Committee meeting from May 5, 2022. Receive and file.

This Committees/Reports/Recommendations was received and filed.

7.5 Joint Personnel Committee (Gardanier/Lanza/Menon -VC)

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

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

CEO Peña reported that a brief Special JPC meeting would be held in person on August 10, 2022 at 10:00 a.m. to make the necessary AB361 factual findings so that the JPC may have a more meaningful meeting via zoom later in August.

• **PROPOSED AGENDA ITEMS**

None.

• **ADJOURNMENT**

Next Meeting: September 1, 2022

The meeting adjourned at 12:06 p.m.

*Estimated

Minutes Recorded, Prepared and Respectfully Submitted by,

DREW LANZA, CHAIR
BOARD OF ADMINISTRATION

ATTEST:

ROBERTO L. PEÑA, CEO
OFFICE OF RETIREMENT SERVICES