

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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December 9, 2009

The Board of Retirement met in regular session at 9:00 a.m. on Wednesday, December 9, 2009 in the Conference Room of the Contra Costa County Employees' Retirement Association, 1355 Willow Way, Suite 221, Concord, CA.

Present: Terry Buck, Richard Cabral, Dave Gaynor, Brian Hast, Jerry Holcombe, Paul Katz, Sharon Naramore, William J. Pollacek, Jim Remick, Jerry Telles, and Maria Theresa Viramontes.

Staff: Marilyn Leedom, Retirement Chief Executive Officer; Silvina Leroux, Retirement Deputy Chief Executive Officer; Cary Hally, Retirement Chief Investment Officer; Karen Levy, Counsel; Rick Koehler, Retirement Accounting Manager; Kathy Somsen, Retirement Benefits Manager; Toni Warren, Retirement Administration Manager.

Outside Professional Support: Representing:
Harvey Leiderman Reed Smith LLP

Other Attendees:

Tracy Kroll	Contra Costa County Employees' Retirement Association (CCCERA) Staff
Joelle Luhn	CCCERA Staff
Luz Casas	CCCERA Staff
Satomi Cadena	Contra Costa County Retired Employees' Association (CCCREA)
Gene Dansel	Self
Mike Whitchurch	Self
Todd Smithey	Contra Costa County Sanitary District (CCCSD)
Lorna Thompson	Self
Suzie Griffith	AFSCME
Donna Irwin	Retiree Support Group (RSG)
Nodge Irwin	Retiree Support Group (RSG)

1. Pledge of Allegiance

Remick led all in the *Pledge of Allegiance*.

2. Public Comment

Satomi Cadena from CCCREA invited all Board and Retirement Staff to the CCCREA luncheon, tomorrow, December 10, 2009, at Zio Fraedo's, in Pleasant Hill.

Pollacek announced that the terminal pay issue will not be discussed on this agenda and the Depooling Presentation by the Segal Company will be on the January 13, 2010 agenda.

3. Approval of Minutes

It was **M/S/C** to approve the minutes of the October 22, 2009 meeting. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, and Telles; Abs: Katz)

It was **M/S/C** to approve the minutes of the October 28, 2009 meeting. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Katz, Pollacek, and Telles)

After changing the second paragraph on Page 4, to: "Pollacek noted CCCERA is in the upper quartile of public funds ***for the 5 and 10 year cumulative return*** and CCCERA's portfolio has outperformed CalPERS ***over the past 5 and 10 years***, it was **M/S/C** to approve the minutes of the November 24, 2009 meeting as amended. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Katz, Pollacek, and Telles)

4. Routine Items

It was **M/S/C** to approve the routine items of the December 9, 2009 meeting. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Katz, Pollacek, and Telles)

It was the consensus of the Board to proceed to Items 6 and 7.

6. 2010 Board Meeting Calendar

After removing extra notations, it was **M/S/C** to approve the 2010 Board Meeting Calendar as amended. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Katz, Pollacek, and Telles)

Board and staff will be provided a clean copy of the 2010 Board Meeting Calendar.

Viramontes was present for subsequent discussion and voting.

7. Conference Seminar Attendance

- (a) It was **M/S/C** to authorize the attendance of Buck, Cabral, Hally, Remick and Pollacek at the Public Funds Roundtable, Institutional Investor, April 21-23, 2010, Austin, TX. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Katz, Pollacek, Telles and Viramontes)

It was the consensus of the Board to proceed to Item 5.

5. Educational Session on Fiduciary Duties and Ethics

Leiderman began by stating his presentation does not fulfill the "Ethics Training for Local Officials" requirement of AB 1234 since there was insufficient time to have the presentation approved by the Fair Political Practices Commission ("FPPC"). He stated

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training is not only for Board members, but for staff as well, since they are also fiduciaries of the fund.

He reviewed and explained the three fundamental fiduciary duties that appear in Article XVI, section 17, of the California Constitution: primary loyalty rule, exclusive benefit rule and prudent person rule. Leiderman discussed the relationship of the trustor (County and Districts), trustees (Board and Staff), trust (the fund) and beneficiaries (members and their beneficiaries). He noted the primary responsibility of trustees is to determine what is needed to go into the trust and to deliver the benefits to the beneficiaries of the trust that the trustor has promised to deliver, in accordance with the rules of the plan documents for the trust. The plan documents rules include the '37 Act, the Board policies, Internal Revenue Service rules, and other laws and regulations.

Leiderman discussed items that are not presently part of this trust, such as providing retiree healthcare. The Board has authority to administer discretionary benefits; however, their primary duty is to deliver funds from the trust to the beneficiaries. He noted the assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

He then reviewed the Prudent Person Rule/Duty to Diversify Investments. Leiderman noted no one can hold a trustee responsible for not being right all the time in their choice of investments. Trustees are not guarantors of results and cannot be experts; consultants are hired for the purpose of providing expert advice, but the trustees need to exercise their informed judgment on making investment decisions. Due diligence is part of the prudent person rule.

Leiderman discussed the *Code of Fiduciary Conduct and Ethics* adopted by the Board in July 2003. He discussed Government Code Section 1090, which prohibits Board members from having financial interests, directly or indirectly, in any contract made by the Board. Trustees' judgment should be independent and not clouded by personal financial interest when voting on an investment. Trustees must make a disclosure if they have a financial interest in an issue before the Board; in some cases, the entire Board would be unable to vote on the issue. In some cases, the Board Member has to recuse themselves and the rest of the Board can still vote on the matter. Board members must avoid activities which may impair the ability to exercise their independent judgment.

Leiderman concluded by noting Board members do not represent the constituency that put them on the Board. Their sole responsibility is to the trust.

It was the consensus of the Board to have Leiderman seek FPPC approval for this session, to satisfy the "Ethics Training for Local Officials" requirement of AB 1234.

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8. Miscellaneous

- (a) Staff Report - Leedom noted she will be working with counsel to update State Street's custodial contract.

She asked direction from the Board regarding information provided on terminal pay for the annual Benefits Statement as of December 31, 2009. There was discussion on holding off production of the statement, the need for active employees to receive timely benefit statements, and that many active members make decisions based on the information included in the benefit statement.

Forms to include emergency contact information for Board members were distributed.

Leedom noted she was recently called in to talk to the Grand Jury.

Hally stated he received a call from McKinley Capital noting a departure of a long term employee. Hally will follow-up with McKinley on the departure. There was some discussion if a special meeting was needed to discuss this further.

Levy noted she has summarized the 2009 legislation affecting the County Employees Retirement Law of 1937 ("37 Act"). The main piece of legislation this year was AB 1584, establishing a marketing ban, revolving door prohibition, and placement agent disclosure. AB 609, aimed at raising the administrative cost cap for '37 Act systems, was put on a two-year track. The Bill that would make the Marin retirement system independent was also put on a two-year track. San Bernardino retirement system has become almost entirely independent. The Governor vetoed AB 1136 regarding changes in optional settlements, noting it could create unfunded increases to county retirement costs. Orange County has established a hybrid plan, providing both new hires and current employees with the option of choosing the existing defined benefit plan or a new hybrid that combines a smaller defined benefit payment with a 401(k)-style individual investment plan. Levy further noted she has summarized the fiduciary liability insurance policy, which includes a newly negotiated term that allows the Board to retain counsel of its choosing rather than be limited to insurance panel attorneys. Fees are limited to the insurer-approved rates.

Levy discussed the key differences of the new fiduciary liability insurance, including the ability to hire our own counsel for claims, with reimbursement limited to a set rate. Leedom noted that, in the past, Board members paid \$25 each for the waiver of recourse insurance. Board members will now pay a combined fee of \$100. It was also noted the premiums are lower than in the past.

- (b) Outside Professionals' Report - Nothing further to report.

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- (c) Trustees' Comments - Buck noted he along with Remick and Telles went out to lunch with Peter Cheung to discuss a product.

Cabral noted he had a conversation with Dan Borenstein of the Contra Costa Times, regarding an article Mr. Borenstein is writing regarding the County's Key Employee benefit. He noted the Key Employee benefit has been terminated.

Telles reported, the Retiree Support Group (RSG) held an election and Bill Hamilton was elected Chair, Elaine Grothmann, Secretary, Doug Pipes, Board Seat #2 and Carl Carey is Board Seat #3. Telles is no longer on the Board for RSG.

It was *M/S/C* to adjourn. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Katz, Pollacek, Telles and Viramontes)



William J. Pollacek, Chairman



David Gaynor, Secretary