VENTURA COUNTY EMPLOYEES’ RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

September 8, 2014

AGENDA

PLACE: Ventura County Employees' Retirement Association
     Second Floor Boardroom
     1190 South Victoria Avenue
     Ventura, CA 93003

TIME: 9:00 a.m.

ITEM:

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. Business Meeting of July 21, 2014.

IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION
    STATUS REPORT

V. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service Connected Disability Retirement,
   Ester V. Diaz; Case No. 12-012.
   1. Petition for Reconsideration, submitted by Applicant

B. Application for Non-Service Connected Disability
   Retirement; Phillip Nazario; Case No. 11-025.
V. **APPLICATIONS FOR DISABILITY RETIREMENT** (continued)

1. Application for Non-Service Connected Disability Retirement and Supporting Documentation.


C. Application for Service Connected & Non-Service Connected Disability Retirement; David Tennessen; Case No. 13-007.

   1. Application for Service Connected Disability Retirement and Supporting Documentation.


D. Application for Service Connected Disability Retirement, Mary K. Stanistreet; Case No. 12-020.


E. Application for Service Connected Disability Retirement, Linda M. Escoto; Case No. 13-018.


F. Application for Service Connected Disability Retirement, Susan M. Lopez; Case No. 12-031.


VI. OLD BUSINESS

VII. NEW BUSINESS
   A. Notification and Consideration of Additional Lease Space. 357 – 359

VIII. INFORMATIONAL
   A. Trial Court Final Ruling – Lacey vs. Mark Lunn Ventura County Clerk Recorder Registrar of Voters. 360 – 362
   B. Ad Hoc Committee’s Progress Update – Robert Palmer, SACRS Executive Director. 363 – 364
   C. Public Fund Workshop – NEPC, LLC; January 12 – 13, 2015, Tempe, AZ. 365

IX. PUBLIC COMMENT
X. STAFF COMMENT
XI. BOARD MEMBER COMMENT
XII. ADJOURNMENT
VENTURA COUNTY EMPLOYEES’ RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

BUSINESS MEETING

July 21, 2014

MINUTES

DIRECTORS PRESENT: Tracy Towner, Chair, Safety Employee Member
William W. Wilson, Vice Chair, Public Member
Steven Hintz, Treasurer-Tax Collector
Joseph Henderson, Public Member
Mike Sedell, Public Member
Deanna McCormick, General Employee Member
Arthur E. Goulet, Retiree Member
Will Hoag, Alternate Retiree Member
Chris Johnston, Alternate Employee Member

DIRECTORS ABSENT: Tom Johnston, General Employee Member
Peter C. Foy, Public Member

STAFF PRESENT: Tim Thonis, Interim Retirement Administrator
Henry Solis, Chief Financial Officer
Lori Nemiroff, Assistant County Counsel
Stephanie Caiazza, Program Assistant

PLACE: Ventura County Employees’ Retirement Association
Second Floor Boardroom
1190 South Victoria Avenue
Ventura, CA 93003

TIME: 9:00 a.m.

ITEM:
I. CALL TO ORDER

Chair Tracy Towner, called the Business Meeting of July 21, 2014, to order at 9:00 a.m.

II. APPROVAL OF AGENDA

MOTION: Approve the Agenda.

Moved by Henderson, seconded by C. Johnston.

Vote: Motion carried.

Yes: Goulet, Henderson, McCormick, Sedell, C. Johnston, Wilson, Towner

No: -

Absent: T. Johnston, Foy, Hintz

III. APPROVAL OF MINUTES

A. Disability Meeting of July 7, 2014.

Mr. Goulet requested that the minutes be revised on Master Page 7 to show that Mr. Hintz was not absent for the vote approving the proposed recruitment schedule.

MOTION: Approve the Minutes, with correction.

Moved by Goulet, seconded by Henderson.

Vote: Motion carried.

Yes: Goulet, Henderson, McCormick, Sedell, C. Johnston, Wilson, Towner

No: -

Absent: T. Johnston, Foy, Hintz

IV. CONSENT AGENDA

A. Approve Regular and Deferred Retirements and Survivors Continuances for the Month of June 2014.


MOTION: Approve the Consent Agenda.

Moved by Henderson, seconded by C. Johnston.

Vote: Motion carried.
Yes: Goulet, Henderson, McCormick, Sedell, C. Johnston, Wilson, Towner
No: -
Absent: T. Johnston, Foy, Hintz

END OF CONSENT AGENDA

V. STANDING ITEM

A. Receive an Oral Update on Pensionable Compensation and PEPRA.

Ms. Nemiroff informed the Board that there will be a public hearing regarding the proposed regulations on pensionable compensation on August 19, 2014, at 9:30 a.m. in the CalPERS auditorium. In the proposed regulations, CalPERS is recommending the exclusion of bonus pay, employer paid pickups, management incentive pay, off salary scheduled pay and uniform allowance.

Mr. Hintz arrived at 9:06 a.m.

VI. ANNUAL INVESTMENT PRESENTATIONS


Margaret Foley was present on behalf of Walter Scott & Partners Limited to provide an organizational and investment performance update.

B. Receive Annual Investment Presentation, Hexavest Inc., Nadia Cesaratto, Vice President (30 Minutes).

Nadia Cesaratto was present on behalf of Hexavest Inc. to provide an organizational and investment performance update.
VII. INVESTMENT INFORMATION

A. NEPC – Don Stracke, Senior Consultant.


   2. Asset Allocation Update/Workplan Discussion.


   **MOTION**: Receive and File Items 1 – 4.

   Moved by Henderson, seconded by Wilson.

   Vote: Motion carried.

   Yes: Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Wilson, Towner

   No: -

   Absent: T. Johnston, Foy

   Mr. Towner and Mr. Stracke agreed that during the month of August they will discuss topics for the Investment Retreat Agenda, including discussions of the Asset/Liability Study, Mix A. and Alternative Mix A.


   **MOTION**: Receive and File.

   Moved by Hintz, seconded by Wilson.

   Vote: Motion carried.

   Yes: Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Wilson, Towner

   No: -

   Absent: T. Johnston, Foy

   Mr. Wilson left the meeting at 11:30 a.m.

VIII. OLD BUSINESS

A. Consideration of Requested Modifications to VCERIS Change Orders.
After discussion by the Board, the following motion was made:

**MOTION**: Delegate authority to Mr. Goulet to review the VCERIS change orders with Brian Colker of Linea Solutions, and recommend any requisite modifications.

Moved by Henderson, seconded by C. Johnston.

Vote: Motion carried.
Yes: Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Towner
No: -
Absent: T. Johnston, Foy, Wilson

**IX. NEW BUSINESS**

A. Recommendations from Personnel Review Committee – VCERA Staffing.

After discussion by the Board and staff, the following motion was made:

**MOTION**: Approve.

Moved by Sedell, seconded by McCormick.

Vote: Motion carried.
Yes: Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Towner
No: -
Absent: T. Johnston, Foy, Wilson

B. Recommendation to Approve Ms. McCormick’s Participation at PIMCO Institute, October 16 – 17 and October 20 – 24, 2014.

**MOTION**: Approve.

Moved by Sedell, seconded by Henderson.

Vote: Motion carried.
Yes: Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Towner
No: -
Absent: T. Johnston, Foy, Wilson

MOTION: Approve.

Moved by Goulet, seconded by Henderson.

Vote:  Motion carried.
Yes:  Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Towner
No:  -
Absent:  T. Johnston, Foy, Wilson

D.  Review of Ventura County Employees’ Retirement Information System (VCERIS) Project Status Report, Month Ending June 2014.

MOTION: Receive and File.

Moved by Henderson, seconded by McCormick.

Vote:  Motion carried.
Yes:  Goulet, Hintz, Henderson, McCormick, Sedell, C. Johnston, Towner
No:  -
Absent:  T. Johnston, Foy, Wilson

X.  INFORMATIONAL

A.  San Diego County Employees’ Retirement Association’s Request for Leave to File Brief As Amicus Curiae; [Proposed] Order.

B.  San Diego County Employees’ Retirement Association’s Amicus Curiae Brief.

C.  Board of Retirement of the Ventura County Employees’ Retirement Association’s Joinder in Section V of Amicus Curiae Brief Submitted by San Diego County Employees’ Retirement Association.

D.  Letter from T. Bondurant French, Chief Executive Officer, Adams Street Partners.

E.  Wall Street Journal Article – “Big Investors Missed Stock Rally”.

F.  Wall Street Journal Article – “Broad Gains Power Historic Rally”.
XI. PUBLIC COMMENT

None.

XII. STAFF COMMENT

Ms. Caiazza informed the Board that copies of the 2014 edition of the Retirement Law Book are available for the Board's reference.

Mr. Thonis stated that VCERA received $160 million in prefunded employer contributions for FY 2014-15 on July 1, 2014. The prefunded contributions were invested in accordance with VCERA's investment policy.

XIII. BOARD MEMBER COMMENT

None.

XIV. ADJOURNMENT

The meeting was adjourned at 11:56 a.m.

Respectfully submitted,

TIM THONIS, Interim Retirement Administrator

Approved,

TRACY TOWNER, Chairman
September 8, 2014

Board of Retirement
Ventura County Employees’ Retirement Association
1190 South Victoria Avenue, Suite 200
Ventura, CA 93003

SUBJECT: NOTIFICATION AND CONSIDERATION OF ADDITIONAL VCERA LEASE SPACE AT 1190 SOUTH VICTORIA AVENUE, VENTURA, CA

Dear Board Members:

VCERA was notified by MF Daily that Suite 204 on the second floor of our existing office space was vacant and available September 1, 2014, pursuant to Section 6 – Right of First Offer of Amendment #3 of the existing lease. This provision provides VCERA the first opportunity to consider any space that becomes available on the second floor. Further, this section states that in the first two years of the lease, any space on the second floor will be made available under the existing lease terms. After 24 months, the lease rent is based on fair market value.

Suite 204 is 775 square feet (diagram attached) and consists of two offices and a waiting/reception area. In addition, this suite is situated between our existing suites, 200 and 208 and is contiguous to Suite 200. Suite 200 includes Operations and the board room. Suite 208 is where the PAS project team is currently located.

Subsequent to securing the existing office space, VCERA staffing levels have increased by eight positions, six in Operations, one in Fiscal, and one in Administration, for a total of 26 employees. The original office space, excluding suite 204 and 208, would not be sufficient to meet VCERA’s space needs. In addition, given that more than 24 months have elapsed from the execution of the existing lease, a new lease for the additional space would be based on fair market value. Based on the current lease rates of $1.77 per square foot, the minimum annual cost of this additional space would be approximately $16,500, with annual escalations tied to the consumer price index.

The Board may want to consider amending the existing lease to include this additional office space. Staff is seeking direction from the board whether to pursue securing additional office space. If the board directs staff to secure this additional space, a lease amendment will be provided at a subsequent meeting for consideration.
I will be pleased to respond to any questions at the September 8, 2014, disability meeting.

Sincerely,

Henry C. Solis, CPA
Chief Financial Officer
SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA
Ventura
800 South Victoria Avenue
Ventura, CA 93009

SHORT TITLE: Lacey vs. Mark A. Lunn Ventura County Clerk Recorder Registrar of Voters

CLERK'S CERTIFICATE OF SERVICE BY MAIL (Minute Order)

CASE NUMBER:
56-2014-00454309-CU-WM-VTA

I certify that I am not a party to this cause. I certify that a true copy of the Minute Order was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at Ventura, California, on 08/04/2014.

Clerk of the Court, by: _______________________, Deputy

LEROY SMITH
MITCHELL B. DAVIS - HALL OF ADMIN - VEN
800 S VICTORIA AVENUE # 4TH FL
VENTURA, CA 93009-1830

ASHLEY K. DUNNING
STEFEEL LEVITT & WEISS
1 Embarcadero Ctr., 30th Floor
San Francisco, CA 94111

JACQUELINE S. VINACIA
LOUNSBERRY FERGUSON ALTONA & PEAK LLP FIRM
960 CANTERBURY PLACE # SUITE 300
ESCONDIDO, CA 92025-3870

and BY FACSIMILE: I caused said documents to be sent via facsimile to the interested party on August 04, 2014 at 2:50 p.m. from 805-662-6712 and with no notice of error as follows:

Deborah Caplan
OLSON HAGEL & FISHBURN LLP
Fax: 916-442-1280

LEROY SMITH
Fax: 805-654-2185

CLERK'S CERTIFICATE OF SERVICE BY MAIL
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA

MINUTE ORDER

DATE: 08/04/2014

JUDICIAL OFFICER PRESIDING: Kent Kellegrew
CLERK: Hellmi McIntyre
REPORTER/ERM:

CASE NO: 56-2014-00454309-CU-WM-VTA
CASE TITLE: Lacey vs. Mark A. Lunn Ventura County Clerk Recorder Registrar of Voters
CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT TYPE: Ruling on Submitted Matter

APPEARANCES

The Court, having previously taken the Petition for Writ of Mandate (08/04/2014) under submission, now rules as follows:

The Court adopts its tentative as the ruling on the Petition for Writ of Mandate with the following exception. The court acknowledges that the issues raised in this case involve matters of first impression. The Court also acknowledges that the initiative process is a particularly important right of the electorate. The injunction issued in this case shall be stayed for 10 days until August 14, 2014 so that the parties can seek appellate review.

Preliminary Statement

Reduced to its most basic components, this case involves the question of whether or not a county, through the initiative process, may withdraw from a statewide system enacted by the Legislature. This court concludes that the initiative process cannot be used for such a process. Instead, counties seeking to withdraw from the County Employee Retirement Law ("CERL") must petition the Legislature.

This Court expresses no opinion as to whether or not it is in the best interest of the voters of the County of Ventura to withdraw from CERL. This Court's analysis begins and ends with an examination as to whether or not withdrawal from CERL can be accomplished by the initiative process.

Petitioner's Evidentiary Objections:
Grau Declaration: Sustain – Hearsay and not relevant to legal issues presented
Thomson Declaration: Sustain – Hearsay and not relevant to legal issues presented.

Real Party in Interest Objections:
Rose Declaration: Sustain as to paragraph 10 – lack of foundation: overrule the remaining objections.
Dean Declaration: Sustain – Lack of foundation.
Towner Declaration: Overrule

Petitioner's Request for Judicial Notice of items A-R: Grant
Respondent's Request for Judicial Notice of Exhibits A-D: Grant

The Court intends to Grant petitioner’s First Amended Petition for Writ of Mandate and issue an injunction barring the subject initiative from appearing on the November 2014 ballot. The County Employees Retirement Act of 1937 (CERL) is a state wide law that becomes operative for counties upon acceptance. It is a comprehensive and complex retirement system that has been amended throughout the years to include different options for participating counties to accept and it has been amended to address concerns specific to participating counties. There is nothing within CERL that provides for withdrawal by a county which has accepted the Retirement Act of 1937. 10 Ops AG 96 (Exhibit M to RJN). (AG opinions are entitled to great weight even though they are not legally binding on the judiciary. Natkin v. CA Unemployment Insur. Appeals Bd. (2013) 213 CA 4th 997, 1006-1007.)

"The initiative and referendum are powers reserved by the people and liberally construed in favor of their exercise. [Citations] But the electorate's use of these powers is not unlimited. 'Even under the most liberal interpretation, however, the reserved powers of initiative and referendum do not encompass all possible actions of a legislative body. Those powers and limited... to the adoption or rejection of "statutes." ...' [Citations] (Marblehead, supra, 226 Cal.App. 3d at p. 1509, 277 Cal.Rptr. 550; see also American Federation of Labor v. EU, supra, 36 Cal.3d at p. 708, 206 Cal.Rptr. 89, 686 P2d 609.)"

No provision of CERL permits an individual county to 'opt out' or terminate its participation based on a countywide voter initiative or even a majority or super majority action by a county board of supervisors. CERL does expressly allow for districts to withdraw from the retirement system and sets forth the procedures for same. Gov. Code 31564, 31564.2.

When the Legislature enacted CERL it permitted individual counties to choose to participate. Participation was not mandatory. Only 20 of California’s 58 counties chose to participate in CERL. When Ventura County opted to participate in CERL it agreed to follow the rules established by the Legislature. Exit from CERL is limited to the procedures set forth in Gov. Code 31564, 31564.2 and the exercise of the political process to persuade the Legislature to act.

As a consequence, allowing this measure to be considered on the November ballot would only result in a waste of public resources. If the initiative was adopted by the voters of Ventura County, the measure could not be implemented.

The Court observes that even if this subject matter could be addressed by the electorate this initiative must be barred from appearing on the November ballot. The initiative violates the single subject requirement imposed by the California Constitution. The subject initiative seeks to: 1) eliminate defined benefit retirement programs and 2) impose a five year salary cap. By including two subjects in the initiative the measure violates the single subject requirement.

Clerk to give notice.
To Educate Or Not To Educate…That Is The Question….  

As Hamlet’s contemplates his continued existence in his moving soliloquy, it serves well as an analogy for the future direction that SACRS should consider.

The ad hoc committee appointed by Yves Chery, SACRS President, is very much aware that moving in a direction to provide more educational information on the advantages of defined benefit plans is a new and challenging area for SACRS. SACRS is composed of twenty county pension systems that often see their system’s role as quite different from each other.

The initiative filed in Ventura is a line in the sand for us. Some see this as the start of a “domino effect”. Others have conveyed that the issue of benefits is really an employer and employee issue. They are the responsible parties and therefore they should be the ones mounting an active defense if they wish to maintain their current benefits.

We in SACRS are supposed to be trustees and fiduciaries, which is true. But we are also the most knowledgeable about our business. We know fact from misrepresentation better than any other entity. Some trustees and administrators want to wait to see the outcome of the initiative, others believe the time is now, and not wait. It is this environment that the ad hoc committee was asked to discuss and make recommendations to the SACRS Board of Directors. The intent is that the SACRS Board of Directors will have a plan and present it to the full membership at the next conference.

To get more actively involved leads to a discussion of public exposure. The topic of SACRS creating more visibility is very difficult. Historically, we have pride ourselves on staying under the radar. So who should lead the discussion on the positive aspects of providing DB plans? There is so much negative information being released that is going unchallenged. We are really the experts on this subject. But it has been the employer and the employees who have negotiated and changed the plans’ benefits. They are ultimately responsible for the content of the plans. Many of the systems are signaling that they are uncomfortable with publicly supporting the defined benefit plans as proposed by the SACRS Executive Director.

Is there a role for SACRS in this issue? And what form should it take?
Sometimes, it is necessary to take small steps in matters of great importance. And that is the direction that the ad hoc committee is advising the SACRS Board of Directors to consider.

It has been suggested that we should focus on our own membership and affiliations on the importance of the defined benefit plans. We find that our members have a limited understanding of the benefits to which they are entitled. Also it has been said that the level of interest is primarily because they trust us. They know that we function in the best interests of the members. They know that “the promise” made to them by their employer will be fulfilled by us, the trustees.

At this point in time, the ad hoc committee is suggesting that factual information be gathered and made available for internal use among the SACRS systems and their affiliations. The purpose would be twofold: to educate the members and other interested parties of the SACRS organization on the positive aspects of their defined benefits and also to provide a clear and consistent understanding of our business. So often factual information about our plans is misinterpreted or used in an inappropriate way. Having one source may prove useful to all systems and to their membership.

With this general direction in mind, the ad hoc committee believes it is necessary to establish policies and procedures on how this communication would be undertaken. The ad hoc committee plans to meet with a professional communications firm to explore creating and maintaining a method of providing ongoing and useful information to the SACRS systems. If this appears to be feasible it may become part of the ad hoc committee’s recommendation to the SACRS Board of Directors for consideration to the full membership.

As this project progresses, we will provide you, the Board, with further updates and a possible plan of action.

Thank you,

Robert Palmer

Robert Palmer,
SACRS Executive Director

Cc: Members of the ad hoc Committee
Please Save the Date for our 6th annual Public Fund Workshop! The workshop gives our large Public Fund clients an opportunity to hear from NEPC Consultants and Research Analysts, their peers and prominent thinkers of the industry about investment trends and issues that are faced by Public Funds.

This exclusive workshop is hosted in an intimate setting and is usually attended by 2-3 people from each Fund. The Workshop is designed to encourage participation and collaboration from everyone who attends!

We would welcome your input on the discussion topics and speakers for the 2015 workshop. Listed below are the topics that were discussed at our 2014 workshop.

- Public Plan Trends, Threats and Challenges
- Outlook, Challenges and Opportunities for Emerging Markets
- Global Energy Revolution—Economic and Investment Implications in the U.S. and Beyond
- Public Sector Pension Governance
- Risk Monitoring and Management
- Rising Rates and the Current and Anticipated Credit Environment
- How to Structure a Fixed Income Portfolio in a Rising Interest Rate Environment
- Plan Sponsor Issues and Challenges—Investments/Operations/Political Environment

We would like suggestions for topics that are of interest to YOU! If you have a unique investment idea or a particular issue that your Fund is facing, and would like to lead a discussion about it at the Workshop, please let us know. If you have seen an outside speaker recently that you think would be interesting or topical for the group, please let us know. We would be interested in them as well.

We would like to get an agenda together for the workshop by the beginning of November. If you are interested in participating in the 2015 Public Fund workshop, please respond to Starr Shiffler (sshiffler@nepc.com) with your proposed topics of interest or preferred speakers by October 24, 2014. We will distribute a proposed agenda and an official invite for the Workshop in November. We hope you will be able to join us in Arizona!