

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

JULY 10, 2023

MINUTES

TRUSTEES

PRESENT:

Mike Sedell, Chair, Public Member
Arthur E. Goulet, Vice-Chair, Retired Member
Sue Horgan, Treasurer-Tax Collector
Jordan Roberts, General Employee Member
Cecilia Hernandez-Garcia, General Employee Member
Aaron Grass, Safety Employee Member
Tommie E. Joe, Public Member
Will Hoag, Alternate Retired Member
Robert Ashby, Alternate Safety Employee Member

TRUSTEES

ABSENT:

Kelly Long, Public Member
Will Hoag, Alternate Retired Member

STAFF

PRESENT:

Linda Webb, Retirement Administrator
Amy Herron, Chief Operations Officer
Lori Nemiroff, General Counsel
Dan Gallagher, Chief Investment Officer
La Valda Marshall, Chief Financial Officer
Leah Oliver, Chief Technology Officer
Josiah Vencel, Retirement Benefits Manager
Brian Owen, Sr. Information Technology Specialist
Michael Sanchez, Sr. Information Technology Specialist
Chris Ayala, Program Assistant

PLACE:

Ventura County Employees' Retirement Association
Second Floor, Boardroom
1190 S. Victoria Avenue, Suite 200
Ventura, CA 93003

TIME:

9:00 a.m.

ITEM:

I. CALL TO ORDER

A. Roll Call.

Chair Sedell called the Disability Meeting of July 10, 2023, to order at 9:04 a.m.

Roll Call:

Trustees Present: Robert Ashby, Aaron Grass, Art Goulet, Cecilia Hernandez-Garcia, Sue Horgan, Tommie Joe, Jordan Roberts, Mike Sedell

Trustees Absent: Kelly Long, Will Hoag

II. APPROVAL OF AGENDA

Chair Sedell noted that there were two requests for Public Comments and suggested the Board hear them after approval of the Consent Agenda. Also, Item III.B., "Approve Business Meeting Minutes of May 22, 2023," was not able to be provided in time for the meeting and therefore would be pulled from the Consent Agenda.

Trustee Hoag arrived at the meeting at 9:07 a.m.

MOTION: Approve as Amended.

Moved by Grass, seconded by Roberts

Vote: Motion carried

Yes: Grass, Goulet, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: -

III. CONSENT AGENDA

Notice: Any item appearing on the Consent Agenda may be moved to the Regular Agenda at the request of any Trustee who would like to propose changes to or have a discussion on the item. Note that approval of the meeting minutes is now part of the Consent Agenda.

A. Receive and File Pending Disability Application Status Report.

B. Approve Business Meeting Minutes of May 22, 2023.
To be Provided.

MOTION: Approve Consent Agenda, Item A.

Moved by Roberts, seconded by Joe

Vote: Motion carried

Yes: Grass, Goulet, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long
Abstain: -

After the vote on the agenda item, the Board advanced to Item IX., "Public Comments."

IV. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-connected Disability Retirement—Sabharwal, Negar; Case No. 18-024.

1. Proposed Findings of Fact, Conclusions of Law, and Recommended Decision to Deny the Application for Service-connected Disability Retirement, filed by Hearing Officer Deborah Wissley, dated May 10, 2023.
2. Applicant's Objections to the Hearing Officer's Report, filed by Thomas Wicke, Applicant's Attorney, dated May 30, 2023.
3. County of Ventura-Risk Management's Response to Applicant's Objections, filed by Stephen Roberson, Attorney for Respondent, dated June 6, 2023.
4. Application for Service-connected Disability Retirement, filed by Applicant's Former Attorney, Joon Kim, dated September 26, 2018.
5. Hearing Notice, dated June 21, 2023.

Josiah Vencel was present on behalf of VCERA. Stephen Roberson, Attorney at Law, and Catherine Laveau were present on behalf of the County of Ventura-Risk Management. Thomas Wicke, Attorney at Law, was present on behalf of the applicant, Negar Sabharwal, who was not present.

Mr. Vencel provided a brief summary statement.

Mr. Wicke provided a brief summary statement.

Mr. Roberson provided a brief summary statement.

MOTION: Approve Hearing Officer's Recommendation to Deny the Application for Service-connected Disability Retirement, Including the Findings of Fact and Conclusions of Law.

Moved by Goulet, seconded by Roberts

Vote: Motion carried

Yes: Goulet, Horgan, Joe, Roberts, Sedell

No: Grass, Hernandez-Garcia

Absent: Long

Abstain: -

B. Application for Service-connected Disability Retirement—Hull, Henry; Case No. 21-006.

1. Staff Recommendation to Grant the Application for Service-connected Disability Retirement, dated July 3, 2023.

2. County of Ventura-Risk Management's Response to VCERA's Preliminary Recommendation, dated June 2, 2023.
3. Supporting Documentation for Staff Recommendation.
4. Application for Service-connected Disability Retirement, filed by Applicant's Former Attorney, Russell Ghitterman, dated April 5, 2021.
5. Hearing Notice, dated July 3, 2023.

Josiah Vencel was present on behalf of VCERA. Catherine Laveau was present on behalf of the County of Ventura-Risk Management. Jane Oatman, Attorney at Law, was present on behalf of the applicant, Henry Hull, who was not present.

Mr. Vencel provided a summary statement.

Ms. Oatman provided a brief summary statement.

Ms. Laveau provided comments regarding the County's position on the case, which was to support staff's recommendation.

MOTION: Approve Staff's Recommendation to Grant Service-connected Disability Retirement, Effective December 7, 2019.

Moved by Grass, seconded by Roberts

Vote: Motion carried

Yes: Grass, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: Goulet, Hernandez-Garcia

Trustee Goulet said he would abstain because of some concerns he had with the case.

- C. Application for Service-connected Disability Retirement—Horton, Guy; Case No. 21-018.
1. Staff Recommendation to Grant the Application for Service-connected Disability Retirement, dated June 13, 2023.
 2. Supporting Documentation for Staff Recommendation.
 3. Application for Service-connected Disability Retirement, filed by Applicant's Attorney, Thomas Wicke, dated June 17, 2021.
 4. Hearing Notice, dated June 13, 2023.

Josiah Vencel was present on behalf of VCERA. Thomas Wicke, Attorney at Law, was present on behalf of the applicant, Guy Horton, who was also present.

Mr. Vencel provided a summary statement.

Mr. Wicke provided a brief summary statement.

MOTION: Approve Staff's Recommendation to the Grant Service-connected Disability Retirement Application, Effective August 6, 2021.

Moved by Grass, seconded by Joe

Vote: Motion carried

Yes: Grass, Goulet, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: -

D. Application for Service-connected Disability Retirement—Fisher, Mark; Case No. 21-023.

1. Staff Recommendation to Grant the Application for Service-connected Disability Retirement, dated June 29, 2023.
2. Supporting Documentation for Staff Recommendation.
3. Application for Service-connected Disability Retirement, filed by Applicant's Attorney, Thomas Wicke, dated August 6, 2021.
4. Hearing Notice, dated June 29, 2023.

Josiah Vencel was present on behalf of VCERA. Thomas Wicke, Attorney at Law, was present on behalf of the applicant, Mark Fisher, who was not present.

Mr. Vencel provided a brief summary statement.

Mr. Wicke provided a brief summary statement.

MOTION: Approve Staff's Recommendation to Grant the Service-connected Disability Retirement Application, Effective August 20, 2021.

Moved by Ashby, seconded by Goulet

Vote: Motion carried

Yes: Grass, Goulet, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: -

V. OLD BUSINESS

A. Status Update – David Maher (Case #20-009: Closed).

1. Staff Memo Regarding Case Status Update, dated July 10, 2023.

2. Board Hearing Decision Notice Follow-Up Letter to Applicant, dated May 2, 2023.
3. Application for Service-connected Disability Retirement, filed by Applicant on March 10, 2020, with Amendment to include Application for Nonservice-connected Disability Retirement.
4. Hearing Notice, dated June 29, 2023.

Mr. Vencel provided a brief history and status update on Mr. Maher's disability retirement case in response to a previous Board request.

Ms. Webb noted that in the correspondence staff received from Mr. Maher, he stated that he could not attend today's Board meeting because of a prior commitment and that he planned to take legal action regarding the Board's denial of a disability retirement.

Chair Sedell said that because of Mr. Maher's stated intention to seek legal action regarding his disability retirement case, it would be best if the Board refrained from commenting on his case.

VI. NEW BUSINESS

**A. Renewal of Hearing Officer Contracts for Fiscal Year 2023-24.
RECOMMENDED ACTION: Approve.**

1. Staff Letter from Retirement Administrator.
2. Proposed Contract (Red Line).
3. Proposed Contract (Clean).

Ms. Webb reminded the Board that the agenda item was annually provided to the Board for review and approval. She also explained that the hearing panel remained the same, although there were some recommended changes to the contract pertaining to administrative appeals.

MOTION: Approve and Authorize the Retirement Administrator to Execute Updated Fiscal Year 2023-2024 Contracts for the Six Listed Members of VCERA's Hearing Officer Panel.

Moved by Grass, seconded by Roberts

Vote: Motion carried

Yes: Grass, Goulet, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: -

**B. New Model Disability Retirement Hearing Rules Review in Advance of July 24, 2023
Recommendation.**

1. Staff Letter from Retirement Administrator.
2. New Disability Hearing Rules.

3. Communication with County of Ventura Regarding Rules.

Ms. Webb said that staff was presenting the New Model Disability Retirement Hearing Rules for Board review in advance of the July 24 meeting. She said the reason for the proposed Hearing Rules was because of staff's difficulty in working with the parties to calendar several disability case hearings; this step sought to streamline the process for the benefit of members. She added that staff would be meeting with the County to hear their feedback on the proposed rules.

C. Authorization for Chief Technology Officer to Attend the Gartner IT Symposium Conference, October 16 - 19, 2023, in Orlando, Florida.

RECOMMENDED ACTION: Approve.

1. Staff Letter from Chief Technology Officer.
2. Gartner IT Symposium 2023 Agenda.

MOTION: Approve and Authorize Chief Technology Officer to Attend the 2023 Gartner IT Symposium Conference.

Moved by Roberts, seconded by Horgan

Before the vote, Trustee Goulet remarked that he recalled the Board had directed the Chief Technology Officer to provide the Board with periodic reports on what the Board was gaining from their contract with Gartner.

Ms. Oliver explained that last year the Board had requested a list of items that Gartner had provided to VCERA staff, and the Board had also approved continuation of the final 2 years of the original 3-year contract with Gartner. However, she did not recall that the Board had requested additional information after that meeting, but if the Board would like to request periodic reports regarding Gartner, she would be happy to provide them.

Chair Sedell suggested that staff determine whether there was a request to provide the reports, and if there wasn't a request for them, then Trustee Goulet could request that the issue be brought back to the Board. He then directed staff to send an informal memo to the Board on whether or not there was such a request.

Ms. Webb remarked that she also did not believe there was an official request from the Board for those reports, but staff would research to see if there was such a request and report back to them.

Vote: Motion carried

Yes: Grass, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: Goulet

D. Authorization for Chief Financial Officer (CFO) to Attend the Public Pension Financial Forum (P2F2) Conference, October 8 - 11, in Denver, Colorado.

RECOMMENDED ACTION: Approve.

1. Staff Letter from Retirement Administrator.

2. Attachment A - P2F2 Conference Detailed Estimate of Travel Expense.
3. Attachment B – P2F2 Conference at a Glance (Agenda).

MOTION: Approve Request for Authorization for Chief Financial Officer to Attend the 2023 Public Pension Financial Forum (P2F2) Conference.

Moved by Goulet, seconded by Horgan

Vote: Motion carried

Yes: Grass, Goulet, Hernandez-Garcia, Horgan, Joe, Roberts, Sedell

No: -

Absent: Long

Abstain: -

- E. Board Request to Discuss VCERA's Agenda Management Software.
RECOMMENDED ACTION: Provide Feedback to Staff.

1. Staff Letter from Chief Technology Officer.

Ms. Webb said the item was placed on the agenda at the request of Trustee Goulet, who had concerns about specific issues with PrimeGov, VCERA's Agenda Management System. Staff was requesting that the Trustees provide a list of specific issues, so that they could submit requests to PrimeGov accordingly.

Trustee Goulet explained that although PrimeGov may work well for staff, he was not sure that it was the best program for trustees. He then explained some of the issues that he and other Trustees had experienced while using PrimeGov.

Chair Sedell noted that he had also had issues with PrimeGov, and he suggested that the Trustees let Ms. Oliver know about their problems or issues with PrimeGov, so that she could either bring them to PrimeGov's attention or provide more training for the Trustees.

- F. Designation of Representative(s) for Labor Negotiations with Prospective Unrepresented Employee.

Chair Sedell noted that he had previously appointed 3 Trustees to the Ad-Hoc Recruitment Committee, which was comprised of Trustee Horgan, Trustee Ashby, and himself as Chair of the committee. He would task that committee with performing the labor negotiations for the prospective unrepresented employee for Interim Retirement Administrator position, subsequent to a discussion and decision from the Board.

Ms. Webb explained that the Board would consider agenda Item VI.G., "*Consider and Take Possible Action to Set Employment Terms and Compensation for Interim Retirement Administrator and Authorize Chair or Ad Hoc Committee to Finalize Appointment,*" only if the Board felt it necessary after their Closed Session meeting.

After the discussion and designation of Trustees who would oversee labor negotiations with the prospective unrepresented employee, the Board advanced to Item VII.B. "Informational: PBI Research Services – Global Moveit Transfer Cyberattack."

- G. Consider and Take Possible Action to Set Employment Terms and Compensation for Interim Retirement Administrator and Authorize Chair or Ad Hoc Committee to Finalize Appointment.

Chair Sedell noted that during Closed Session, the Board discussed the retention of an Interim Retirement Administrator, and were therefore recommending the execution of a contract, subject to final negotiations of a legal nature with Mr. Richard Santos.

MOTION: Appoint Richard Santos as Interim Retirement Administrator Under Proposed Compensation of \$22,083 per Month and a Reimbursement of Actual Travel and Lodging Expenses Up to \$7,917 per Month and Authorize Ad-Hoc Selection Committee to Finalize Appointment.

Moved by Horgan, seconded by Roberts

Chair Sedell said that before the Board voted on the motion, he wanted to state that Mr. Santos had recently retired as the Retirement Administrator for the Stanislaus County Employees' Retirement Association (StanCERA) and had a tremendous background that he would be bringing to VCERA.

Vote: Motion carried

Yes: Goulet, Hernandez-Garcia, Horgan, Joe, Long, Roberts, Sedell, Ashby

No: -

Absent: Grass

Abstain: -

Mr. Santos thanked the Board for considering him for the position. He was very excited about taking on the role of Interim Retirement Administrator for VCERA.

Mr. Webb noted that she had known Mr. Santos for many years, and she had no doubt that he would be a great Interim Retirement Administrator, and she was pleased that she could leave VCERA in capable hands.

After the vote on this item, the Chair adjourned the meeting at 1:04 p.m.

VII. CLOSED SESSION

- A. It is the Intention of the Board of Retirement to Meet in Closed Session, Pursuant to Government Code Section 54957(b)(1), to Discuss the Following Items.

Time Certain at 10:30 a.m.

1. Public Employee Appointment.
Title: Interim Retirement Administrator.
2. Conference with Labor Negotiators, Govt. Code Section 54957.6
Prospective Unrepresented VCERA Employee:
Interim Retirement Administrator

Chair Sedell stated that the Board would take a 5-minute break before going into the Closed Session meeting.

The Board then took a break at 10:49 a.m.

The Board returned from a break at 10:56 a.m. and immediately entered into Closed Session.

Trustee Long arrived during the closed session meeting.

Trustee Grass left during the closed session meeting.

The Board then returned from Closed Session at 12:57 p.m. and returned to agenda Item VI.G., "Consider and Take Possible Action to Set Employment Terms and Compensation for Interim Retirement Administrator and Authorize Chair or Ad Hoc Committee to Finalize Appointment."

VIII. INFORMATIONAL

- A. Letter from Barbara Macri-Ortiz Regarding Ventura County's Request for VCERA Board Review of Procedures in Fast-Track Cases, dated July 3, 2023.
- B. PBI Research Services – Global Moveit Transfer Cyberattack.

Trustee Goulet said that he had concerns about the cyberattack. Both CalPERS and CalSTRS were exploring whether they had the necessary tools to prevent a similar cyberattack, so he would like to be assured that VCERA also had tools. He felt they still needed the development of a full-scale Cyber Security Program, which he believed was one of the things that was supposed to be done in coordination with Gartner.

Ms. Oliver explained that it was something that was being worked on by staff, but they did currently use third-party resources for VCERA's active cyber security plan. There were also annual penetration testing being conducted on VCERA's and multiple other environments, and staff was also looking into a vendor management program to prevent these types of cyberattacks.

Chair Sedell then asked Ms. Oliver to compose a confidential memorandum to the Board as a follow-up to this agenda item that explained VCERA's relationship with Gartner, and what they were doing for VCERA regarding cybersecurity.

After discussion on this agenda item, the Board advanced to Item X., "Staff Comment."

IX. PUBLIC COMMENT

Matt LaVere, Supervisor for the County of Ventura, provided public comment. He said that there was a disability retirement application for Roy Prince, widow of Supervisor Carmen Ramirez, that was discussed at the last Board meeting. He was concerned with staff's recommendation and its investigation because he was not interviewed and therefore not able to provide important information about the case. He requested that he and Selena Zacharias, who coordinated last summer's concert series, be interviewed by VCERA staff or at the evidentiary hearing.

Barbara Macri-Ortiz, Attorney at Law, who represents Roy Prince, provided public comment. She said she was unaware that the Ramirez disability case would be discussed at the June 26 meeting and, had she known, she would have provided pertinent information. Also, she had previously provided a list of witnesses with knowledge of the incident, but she claimed they were not taken into consideration in staff's recommendation. She suggested the Board consider interviewing Supervisor LaVere and Ms. Zacharias.

Chair Sedell said the Board was not able to discuss the case because it was not on the agenda.

Ms. Webb noted that the case was now headed for an evidentiary hearing and that all parties would be able to present evidence or statements at the hearing.

After hearing the public comments, the Board returned to agenda Item IV.A., "Application for Service-connected Disability Retirement—Sabharwal, Negar; Case No. 18-024."

X. STAFF COMMENT

Chair Sedell stated that he had had some discussion with Ms. Webb about holding a going away party for her on August 7th, which would also provide the Trustees with an opportunity to get to know the staff better.

Mr. Gallagher informed the Board that staff had been able to tentatively secure a space for VCERA's Board Retreat on September 25th, and staff was working on acquiring speakers for the event.

XI. BOARD MEMBER COMMENT

Chair Sedell remarked that since there were no comments from the Board, they would recess to Closed Session, and then return to open session with a report. It may also be necessary for the Board to go into a second closed session meeting with the negotiators, and afterwards they would return to open session with a report.

The Board then advanced to agenda Item VII.A., "Closed Session: Public Employee Appointment, Title: Interim Retirement Administrator."

XII. ADJOURNMENT


The Chair adjourned the meeting at 1:04 p.m.

Respectfully submitted,



RICHARD SANTOS, Interim Retirement Administrator

Approved,



MIKE SEDELL, Chair