

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY & BUSINESS MEETING

FEBRUARY 26, 2024

MINUTES

**TRUSTEES
PRESENT:**

Aaron Grass, Chair, Elected Safety Member
Jordan Roberts, Vice Chair, Elected General Member
Greg Bergman, Elected General Member
Taylor Dacus, Appointed Member
Arthur E. Goulet, Elected Retired Member
Sue Horgan, Treasurer-Tax Collector
Tommie E. Joe, Appointed Member
Kelly Long, Appointed Member
Anthony Rainey, Appointed Member
Donald Brodt, Alternate Appointed Member
Maeve Fox, Alternate Elected Retired Member

**TRUSTEES
ABSENT:**

**STAFF
PRESENT:**

Amy Herron, Retirement Administrator
Rick Santos, Interim Retirement Administrator/Consultant
Lori Nemiroff, General Counsel
Dan Gallagher, Chief Investment Officer
La Valda Marshall, Chief Financial Officer
Leah Oliver, Chief Technology Officer
Erika Herincx, Retirement Benefits Manager
Josiah Vencel, Communications Officer
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 Grass called the Business Meeting of February 26, 2024, to order at 9:00 a.m.

Roll Call:

Trustees Present: Greg Bergman, Donald Brodt, Taylor Dacus, Maeve Fox, Aaron Grass, Art Goulet, Sue Horgan, Tommie Joe, Kelly Long, Anthony Rainey, Jordan Roberts

Trustees Absent:

II. APPROVAL OF AGENDA

Chair Grass noted that Trustee Goulet had requested to take off item III.G., "Suspension of Monthly Report of Checks Disbursed to Board", from the Consent Agenda for discussion, however, before they discuss agenda item III.G., the Board would hear Public Comments regarding item VIII.A., "VCERA v. Criminal Justice Attorneys Association of Ventura County, et al". After hearing public comments, the Board would then hear a presentation from VCERA's outside attorney, Ashley Dunning, since the item was time certain for 9:30 a.m.

MOTION: Approve as Amended.

Moved by Long, seconded by Roberts

Vote: Motion carried

Yes: Bergman, Dacus, Goulet, Horgan, Joe, Long, Rainey, Robert, Grass

No: -

Absent: -

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 discussion on the item.

A. Approve Disability & Business Meeting Minutes of January 22, 2024.

B. Approve Regular and Deferred Retirements and Survivors Continuances for the Month of January 2024.

C. Receive and File Pending Disability Application Status Report.

D. Receive and File Year 2023-24 Quarterly Budget Summaries and Financial Statements.

1. Staff Letter from Chief Financial Officer.

2. Budget Summaries.

3. Financial Statements (Unaudited).

- E. Approval of Board Member Education Compliance Report for 2023.
 - 1. Staff Letter from Retirement Administrator.
 - 2. Board Member Education Compliance Report for 2023.
- F. Ratification of Appointment of Finance Committee Members.
 - 1. Letter from Board Chair.
- G. Suspension of Monthly Report of Checks Disbursed to Board.
 - 1. Staff Letter from Retirement Administrator.

Chair Grass explained that after returning from Item IV.A., “Application for Service-connected Disability Retirement—Sears, Gifford; Case no. 19-007. (Old Model) (Fire)”, the Board would discuss item III.G. since they had time to discuss it before time certain item VIII.A., scheduled at 9:30 a.m.

Ms. Herron explained the suspension of the Monthly Report of Checks Disbursed was in response to a discussion by the Board in December 2023, related to their interest in becoming more of a policy-driven Board. The staff letter also included a request for the Board to ratify the change in the process until the Governance Committee was able to discuss the issue further and make a recommendation to the Board.

Trustee Goulet said the Board had not made a decision to remove the report from the Consent Agenda, and it was an important piece of information that was more for the public’s benefit. He also did not see a reason why it could not be provided to the Board on the Consent Agenda.

Trustee Rainey stated that he agreed with Trustee Goulet, and that pursuant to section 37202 of the California Code, cities in California were required to provide *Warrant Demands* to the City Councils for approval, which was similar to the Check Register. This was done so that the public could review the checks issued by the cities, and he believed it was a very important piece of VCERA's internal control process. So, he would like to have staff continue the practice of providing it to the Board in the Consent Agenda.

Trustee Long noted that similar reports were provided monthly to the board members on the various boards she sat on, so that they were able to review them on a monthly basis. Therefore, she was fine with having the report on the Consent Agenda and liked the transparency of providing it to the public.

MOTION: Continue Providing the Monthly Report of Checks Disbursed to the Board on the Consent Agenda.

Moved by Goulet, seconded by Rainey

Vote: Motion carried

Yes: Bergman, Dacus, Goulet, Horgan, Joe, Long, Rainey, Robert, Grass

No: -

Absent: -

Abstain: -

After the vote on the agenda item, the Board took a break at 9:20 a.m.

The Board returned from break at 9:32 a.m., and advanced to agenda item VIII.A., “VCERA v. Criminal Justice Attorneys Association of Ventura County, et al”.

H. Updates to the Appointment & Elections Policy.

1. Staff Letter from Retirement Administrator.
2. Appointment and Election of Trustees Policy Proposed (Redline).
3. Appointment and Election of Trustees Policy Proposed (Clean).

I. Application for Nonservice-connected Disability Retirement – Tapia, Zahay; Case no. 22-011. (New Model)

1. Staff Recommendation to Grant the Application for Nonservice-connected Disability Retirement, dated February 13, 2024.
2. Supporting Documentation for Staff Recommendation.
3. Application for Nonservice-connected Disability Retirement, filed by Applicant, dated May 9, 2022.
4. Hearing Notice dated January 18, 2024.

MOTION: Approve Consent Agenda, Excluding Item G.

Moved by Horgan, seconded by Goulet

Vote: Motion carried

Yes: Bergman, Dacus, Goulet, Horgan, Joe, Long, Rainey, Robert, Grass

No: -

Absent: -

Abstain: -

After the vote on the agenda item, the Board advanced to item, IV.A., “Application for Service-connected Disability Retirement—Sears, Gifford; Case no. 19-007. (Old Model) (Fire)”.

IV. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-connected Disability Retirement—Sears, Gifford; Case no. 19-007. (Old Model) (Fire)

RECOMMENDED ACTION: Approve.

1. Proposed Findings of Fact, Conclusions of Law and Recommended Decision to Grant the Application for Service-connected Disability Retirement, filed by Hearing Officer Robert Klepa, dated December 19, 2023.
2. Application for Service-connected Disability Retirement, filed by Applicant’s Attorney, Thomas Wicke, dated February 19, 2019.
3. Hearing Notice, dated January 17, 2024.

Erika Herincx was present on behalf of VCERA. Catherine Laveau and Carol Kempner, Attorney at Law, were present on behalf of the County of Ventura-Risk Management. Thomas Wicke, Attorney at Law, was present on behalf of the applicant, Gifford Sears.

Ms. Herincx provided a brief summary statement.

Mr. Laveau declined to make a statement.

Mr. Wicke declined to make a statement.

MOTION: Grant the Service-connected Disability Retirement, Effective February 19, 2019.

Moved by Roberts, seconded by Rainey

Vote: Motion carried

Yes: Bergman, Dacus, Horgan, Joe, Long, Rainey, Robert, Grass

No: Goulet

Absent: -

Abstain: -

After the vote on the agenda item, the Board returned to item III.G., "Suspension of Monthly Report of Checks Disbursed to Board".

V. INVESTMENT MANAGER PRESENTATIONS

A. Annual Investment Presentation from Adams Street by Scott Hazen and Jeff Akers.

Scott Hazen and Jeff Akers reported Adams Street's organizational changes and discussed the firm's investment outlook, portfolio strategy, composition, and investment portfolio performance, and responded to trustee questions.

B. Annual Investment Presentation from UBS by Tom O'Shea and Paul Conning.

Tom O'Shea and Paul Conning reported UBS's organizational changes and discussed the firm's investment outlook, portfolio strategy, composition, and investment portfolio performance, and responded to trustee questions.

After hearing the Annual Investment Presentation from UBS, the Board took a break at 11:45 a.m.

The Board returned from break at 11:50 a.m.

VI. INVESTMENT INFORMATION

VCERA – Dan Gallagher, Chief Investment Officer.

NEPC – Rose Dean and Daniel Hennessy.

A. 2023 Q4 VCERA Investment Performance Report.

RECOMMENDED ACTION: Receive and file.

B. Preliminary Performance Report Month Ending January 31, 2024.

RECOMMENDED ACTION: Receive and file.

MOTION: 2023 Q4 VCERA Investment Performance Report and Preliminary Performance Report Month Ending January 31, 2024.

Moved by Goulet, seconded by Horgan

Vote: Motion carried

Yes: Bergman, Brodt, Dacus, Goulet, Horgan, Joe, Rainey, Robert, Grass

No: -

Absent: Long

Abstain: -

C. Capital Market Assumptions and Market Themes.

RECOMMENDED ACTION: Receive and file.

MOTION: Receive and File.

Moved by Roberts, seconded by Rainey

Vote: Motion carried

Yes: Bergman, Brodt, Dacus, Goulet, Horgan, Joe, Rainey, Robert, Grass

No: -

Absent: Long

Abstain: -

After the vote on this agenda item, the Board took a break at 12:45 p.m.

The Board returned from a break at 1:04 p.m.

VII. OLD BUSINESS

A. Alameda Implementation Status Report Dated February 26, 2024.

RECOMMENDED ACTION: Receive and File.

Ms. Herron presented the Alameda Implementation Status Report Dated February 26, 2024, to the Board.

MOTION: Receive and File.

Moved by Horgan, seconded by Goulet

Vote: Motion carried

Yes: Bergman, Brodt, Dacus, Goulet, Horgan, Joe, Rainey, Robert, Grass

No: -

Absent: Long

Abstain: -

After the vote on this agenda item, the Board advanced to item, XI., "Staff Comment".

VIII. NEW BUSINESS

A. VCERA v. Criminal Justice Attorneys Association of Ventura County, et al.

RECOMMENDED ACTION: Receive and File.

Time Certain: 9:30 a.m.

Chair Grass noted that several retired members in attendance had requested to make comments on the item, and the Board would therefore hear their comments before Ms. Dunning's presentation.

Michael Walker, formerly with the County of Ventura, County Counsel's Office, provided public comment. Mr. Walker said that he was at the meeting on behalf of the Retired Employees Association of Ventura County (REAVC) and wanted to first clarify that the Alameda Decision did not have any impact on his retirement since he retired in 2021. He then explained that the Board had another option available to them on how to apply the decision since they could apply it to only those members who retired after the Alameda Decision was issued in August 2020. There were also many sound reasons for the Board to reconsider its decision and apply the exclusion, assuming the decision was finalized by the court, to retirees who retired after the Alameda Decision became final.

Roberta Griego, First Vice-President of REAVC, provided public comment. Ms. Griego read the last paragraph of a letter that REAVC provided to the Board at the meeting, which read, "Based on the court decisions, and your authority outlined within them, we urge you to amend the VCERA Resolution, applying application on a prospective basis only, on a date on or after September 1, 2020, as cited by the courts. The Supreme Court's Alameda Decision was issued on July 30, 2020. It was not final until August 31, 2020. As both court decisions point out, prospective adjustments would be effective, at the earliest, on September 1, 2020". Therefore, they request that the Board reconsider the VCERA Resolution and amend the date.

Tracey Pirie, former Bureau Manager for the County of Ventura Sheriff's Department, provided public comment. She said that their group did not believe the Board needed to apply the decision retroactively back to January 1, 2013. She could not understand why the Board would not apply it prospectively, instead harming the retired members who worked hard to earn their retirements. So, their group would continue to attend the Board meetings to try and get some logic and reason applied to the Board's decision.

Lynn Krieger, former department head for the County of Ventura, Harbor Department, provided public comment. Ms. Krieger said that it was now clear that the Appellate Court affirmed the Superior Court's decision that VCERA was not required to apply the Alameda Decision retroactively or before September 1, 2020, and to apply it prospectively was clearly okay since that's what many other Counties did. There was also no need to worry about the argument related to the overpayment of public funds, because the funds that the Board held in trust were not public funds because those funds did not belong to the County or the Board, but to the retirees, and the Board members were simply fiduciaries and caretakers of those funds. She then asked the Board to please set the issue aside and adopt a new effective date for the implementation of the Alameda Decision.

Marty Robinson, former CEO of the County of Ventura, provided public comment. Ms. Robinson said she was extremely concerned about the Alameda Decision because the implementation date that the Board had decided on was more punishing to their members than for the Alameda County employees. She then asked, why should the Board do something to the members that they were not required to do? So, if the Board had the opportunity to do something different, she would hope that they do it.

Scott Barash, former Program Administrator for the Employee Assistance Program (EAP), County of Ventura provided public comment. Mr. Barash asked the Board to consider the path that their lives had taken to get them to this point, to make the decision before them, which would have an impact on a tremendous number of people.

Ms. Ashley Dunning, VCERA's outside counsel, presented an overview and explanation of the VCERA v. Criminal Justice Attorneys Association of Ventura County, et al. court decisions. The court ruled that "VCERA may exclude such leave cash outs from the calculation of retirement benefit payments made on or after August 31, 2020, to VCERA members who retired on or after January 1, 2013, that is, VCERA does not inappropriately apply [Alameda] prospectively with respect to retirement benefit payments made prior to the finality of the Alameda decision." That is, the Court affirmed that the straddling rules apply to everyone who retired on or after January 1, 2013, and that in applying those rules, VCERA "may" forego recoupment of overpayments made prior to August 31, 2020.

Trustee Goulet said that although Ms. Dunning didn't want to comment on what other counties had done to implement the Alameda Decision, since it did not apply to VCERA, he believed it would be helpful if the Board could receive a list of the counties that dealt with the straddling issue, and also explained why they implemented the Alameda Decision the way they did and why it did not apply to VCERA.

Ms. Dunning noted that many retirement systems under the California Retirement Employees Law (CERL) were handling the implementation of the Alameda Decision in the same way.

Trustee Rainey said that he believed the question was about comparability because although many other retirement systems implemented the Alameda Decision in the same way, he believed that what Trustee Goulet was suggesting was that staff could provide a comparison that showed how and why they implemented it differently than VCERA. Because he also believed it would be good for all board members to see the comparison.

Ms. Dunning stated that what she could say definitively was that VCERA was the system that had the binding court of appeal decision that had ruled on the issue, and there was no other system that had received a court of appeal decision or even a trial court decision, as far as she knew, that supported the same approach.

Trustee Goulet then said the Board was being told by the retirees, over and over again, that other county retirement systems have implemented the decision differently, but Ms. Dunning stated that although they may have implemented it differently, but there were reasons why they did it differently, and it was not applicable here. He believed it would be worth looking at what these other retirement systems did and why it didn't apply for VCERA, otherwise the Board would continue to be told that they had discretion on the implementation date.

MOTION: Request Staff Provide an Analysis to the Board that Explains the Comparison of VCERA's Decision on Applying the Leave Straddling Issue to those CERL Systems that Applied the Law Differently, and Why it May Not be Applicable to VCERA, and Receive and File the Presentation.

Moved by Goulet, seconded by Rainey

Vote: Motion carried

Yes: Bergman, Dacus, Goulet, Horgan, Joe, Rainey, Robert

No: Grass

Absent: Long

Abstain: -

After the vote on the agenda item, the Board took a break at 10:35 a.m.

Trustee Long left the meeting during the break at 10:39 a.m.

The Board returned from a break at 10:45 a.m., and returned to agenda item V.A., "Annual Investment Presentation from Adams Street by Scott Hazen and Jeff Akers".

IX. INFORMATIONAL

None.

X. PUBLIC COMMENT

None.

XI. STAFF COMMENT

Ms. Herron informed the Board that Ms. Betsy Byrne had been hired as VCERA's new Chief Operations Officer and had a wealth of experience working with local government agencies. She was most recently employed with the County of Ventura, Auditor-Controller's Office, as the Payroll Manager, and had been working on the Alameda Implementation Project, from the County's side, which should prove helpful for VCERA. Ms. Byrne's start date was March 18th, and staff was looking forward to that. The recruitment for the Communications Officer position was recently opened on February 7th and closed on the 28th, so staff would continue to move forward with that recruitment once it closed. Staff had also been working with the County of Ventura CEO/HR on the Investment Officer recruitment, to finalize a Job Analysis, Job Bulletin, and Job Brochure, and was expecting that recruitment to open soon. As for the legislation change for the Chief Technology Officer (CTO) position, Chair Grass, Trustee Goulet, Trustee Long, and VCERA's General Counsel, Lori Nemiroff had been working with her to add the CTO's position to the list of VCERA's Special District employees. They originally submitted this change to Assemblymember Irwin's office by the deadline of, January 19, 2024, and then reached out to several representatives, and they were ultimately able to have the bill authored and introduced by Senator Limon by the February 16th deadline. Staff was now working with her office in preparing a Fact Sheet to send to other office lobbyists and respective committees, before being assigned with a committee to move the process forward. Also, staff had proceeded with expanding the services of Vivian Schultz, VCERA's outside attorney, assisting with the disability retirement process. The expansion of Ms. Schultz's services would be for the remainder of the fiscal year, given that VCERA just hired a new Disability Retirement Manager, and that there was a little bit of a backlog of disability cases due to resource issues that VCERA was experiencing in the past, which Ms. Schultz would be able to assist with. There were also enough funds in the budget to cover this expense; however, staff may need to return to the Board in the next fiscal year for more funding. Lastly, she noted that it would be the last week of employment with VCERA for Rick Santos, Interim Retirement Administrator. He had been assisting her with her transition from VCERA's COO to her new role as Retirement Administrator, after Ms. Webb's retirement in August 2023. Staff appreciated everything he had done for them and had been a stabilizing force for them, as well as being a great mentor to her.

XII. BOARD MEMBER COMMENT

Chair Grass also wanted to say goodbye to Mr. Santos. He said it was great to have him with VCERA, and he knew that other associations that he represented had appreciated Mr. Santos's leadership and believed he had done a great job during his time with VCERA, and he wished him luck in his future endeavors.

Chair Grass also wanted to report that Ms. Herron, Mr. Santos, and Ms. Nemiroff had been looking into a Deferred Retirement Option Plan (DROP) for the safety members, however, there were currently some things that were likely to need further research on a longer-term basis. So, he did not expect that the Board would need to do anything on the issue, at least in the immediate future.

XIII. ADJOURNMENT

The Chair adjourned the meeting at 1:14 p.m.

Respectfully submitted,



AMY HERRON, Retirement Administrator

Approved,



AARON GRASS, Chair