VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

SEPTEMBER 11, 2017

MINUTES

DIRECTORS PRESENT: Tracy Towner, Chair, Alternate Safety Employee Member
William W. Wilson, Vice Chair, Public Member
Robert Bianchi, Public Member
Maeve Fox, General Employee Member
Craig Winter, General Employee Member
Arthur E. Goulet, Retiree Member
Will Hoag, Alternate Retiree Member
Chris Johnston, Safety Employee Member
Ed McCombs, Alternate Public Member

DIRECTORS ABSENT: Steven Hintz, Treasurer-Tax Collector
Peter C. Foy, Public Member
Mike Sedell, Public Member

STAFF PRESENT: Linda Webb, Retirement Administrator
Lori Nemiroff, General Counsel
Henry Solis, Chief Financial Officer
Dan Gallagher, Chief Investment Officer
Julie Stallings, Chief Operations Officer
Shalini Nunna, Retirement Benefits Manager
Vickie Williams, Retirement Benefits Manager
Karen Scanlan, Accounting Manager I
Donna Edwards, Retirement Benefits Specialist
Chris Ayala, 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 Towner called the Disability Meeting of September 11, 2017, to order at 9:02 a.m.

II. APPROVAL OF AGENDA

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

MOTION: Approve the agenda with correction.

Moved by Johnston, seconded by Goulet.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No: -
Absent: Foy, Hintz, Sedell

III. APPROVAL OF MINUTES

A. Business Meeting Minutes of July 24, 2017.

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

MOTION: Approve.

Moved by Johnston, seconded by Bianchi.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No:
Abstained: Goulet
Absent: Foy, Hintz, Sedell

Trustee Goulet abstained because he said that he was not present at the July 24, 2017 meeting.

IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT

MOTION: Receive and File.

Moved by Bianchi, seconded by Johnston.

Vote: Motion carried
Yes: Bianchi, Fox, Johnston, McCombs, Wilson, Winter
No: -
Abstain: Goulet
Absent: Foy, Hintz, Sedell

V. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-Connected Disability Retirement - Timothy Harward; Case No. 15-029.

1. Application for Service-Connected Disability Retirement, filed December 28, 2015.

2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-Connected Disability Retirement, dated August 22, 2017.

3. Hearing Notice, dated August 24, 2017.

Chuck Pode, was present on behalf of County of Ventura Risk Management. The applicant, Timothy Harward was also present.

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

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Johnston, seconded by Winter.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No: -
Absent: Foy, Hintz, Sedell

Both parties agreed to waive preparation of findings of fact and conclusions of law.

B. Application for Service-Connected Disability Retirement - Scott Meierhoff; Case No. 16-004.

1. Application for Service-Connected Disability Retirement, filed February 3, 2016.

2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-Connected Disability Retirement, dated August 3, 2017.

3. Hearing Notice, dated August 15, 2017

Chuck Pode, was present on behalf of County of Ventura Risk Management. The applicant, Scott Meierhoff was also present.

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

MOTION: Approve Application for Non-Service Connected Disability Retirement.

Moved by Johnston, seconded by Bianchi.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, McCombs, Towner [in place of Johnston], Wilson, Winter
No: -
Absent: Foy, Hintz, Sedell

Both parties agreed to waive preparation of findings of fact and conclusions of law.

C. Application for Service-Connected Disability Retirement - Judith Gocke; Case No. 15-006.

1. Summary of Evidence, Suggested Findings of Fact and Conclusions of Law, and Recommendation, submitted by Hearing Officer Deborah Z. Wissley, dated July 16, 2017.

2. Applicant's Objections to the Summary of Evidence, Suggested Findings of Fact and Conclusions of Law, and Recommendation, submitted by Thomas J. Wicke, Attorney for Applicant Judith Gocke, dated July 30, 2017.

3. Legal Memorandum Submitted by Respondent, County of Ventura/Risk Management, In Support of the Summary of Evidence, Suggested Findings of Fact and Conclusions of Law and Recommendation of Hearing Officer Deborah Wissley, ESQ., submitted by Stephen D. Roberson, Attorney for County of Ventura/Risk Management, dated August 14, 2017.

4. Hearing Notice, dated August 16, 2017.

Steve D. Roberson, Attorney at Law, was present on behalf of County of Ventura Risk Management. Thomas J. Wicke, Attorney at Law, was present on behalf of the applicant.

Both attorney's made statements.

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

MOTION: Adopt Hearing Officers Recommendation to Deny the Applicant a Service-Connected Disability Retirement.

Moved by Wilson, seconded by McCombs.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, McCombs, Towner [in place of Johnston], Wilson, Winter

No:
Absent: Foy, Hintz, Sedell

Following the vote on this item, the Board advanced to agenda item VI.A.

D. Application for Service-Connected Disability Retirement - Nora Sanchez; Case No. 15-003.

1. Proposed Findings of Fact and Recommended Decision, submitted by Hearing Officer Humberto Flores, dated May 25, 2017.

2. Hearing Notice, dated August 3, 2017.

Steve D. Roberson, Attorney at Law, was present on behalf of County of Ventura Risk Management. David Schumaker, Attorney at Law, was present on behalf of the applicant. The applicant, Nora Sanchez was also present.

Both attorney's made statements.

The applicant read a statement she had prepared.

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

MOTION: Adopt Hearing Officers Recommendation to Deny the Applicant a Service-Connected Disability Retirement.

Moved by Wilson, seconded by Goulet.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, McCombs, Towner, Wilson, Winter
No: -
Absent: Foy, Hintz, Sedell

Chair Towner then requested a 10-minute break at 10:05 a.m.

The Board returned from break at 10:15 a.m.

E. Application for Service-Connected Disability Retirement - Robert J. Garcia; Case No. 15-010

1. Petition for Reconsideration, submitted by Edwin K. Stone, Attorney for Applicant, Robert J. Garcia, dated May 22, 2017.

2. Opposition to Petition for Reconsideration, submitted by Stephen D. Roberson, Attorney for County of Ventura/Risk Management, dated May 24, 2017.

3. Amended Findings and Decision Regarding Employee Application for Disability Retirement of Robert J. Garcia, submitted by Hearing Officer Robert Klepa, dated March 13, 2017.

4. Objection to Hearing Officer's Proposed Finding of Fact, Determination, and Recommendations, submitted by Edwin K. Stone, Attorney for Applicant, Robert J. Garcia, dated March 22, 2017.

5. Legal Memorandum in support of the Hearing Officer's Recommended Decision that Applicant, Robert Garcia, be denied a Service-Connected Disability Retirement, received from Stephen Roberson, Attorney for County of Ventura/Risk Management, dated March 28, 2017.

6. Hearing Notice, dated May 31, 2017.

Steven D. Roberson, Attorney at Law, was present on behalf of County of Ventura Risk Management. Edwin K. Stone, Attorney at Law, was present on behalf of the applicant. The applicant, Robert J. Garcia, was also present.

Both attorney's made statements.

Trustee Fox recused herself from the vote on the basis that she personally knew the applicant.

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

MOTION: Deny the Petition for Reconsideration.

Moved by Wilson, seconded by Bianchi.

Vote: Motion carried
Yes: Bianchi, Goulet, McCombs, Towner, Wilson
No: Winter
Recuse: Fox
Absent: Foy, Hintz, Sedell

F. Request for Board Ordered Medical Examination, filed by County of Ventura/Risk Management in regard to the Application for Service-Connected Disability Retirement of Zenaida C. Surwin; Case No. 16-005.

1. VCERA Staff Letter, submitted by Retirement Administrator Linda Webb, dated September 11, 2017.

2. Letter submitted by Stephen D. Roberson, Attorney for County of Ventura/Risk Management, dated August 24, 2017, requesting the Board of Retirement to require Applicant Zenaida C. Surwin to attend a Medical Examination.

3. Hearing Notice dated August 28, 2017.

Steven D. Roberson, was present on behalf of County of Ventura Risk Management. The applicant, Zenaida C. Surwin was also present.

Both Mr. Roberson and the applicant made statements.

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

MOTION: Direct Applicant to Attend a Medical Examination with Dr. Boone with the County of Ventura to Pay Reasonable Cost for Food and Lodging for 3 Nights.

Moved by Winter, seconded by Goulet.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No: -
Absent: Foy, Hintz, Sedell

Following the vote on this item, the Board advanced to agenda item VI.B.

VI. OLD BUSINESS

A. Determine Compliance of County's Proposed Publicly-Available Pay Schedule for Market-Based Premium Pay (MBPP) and Determine Pensionability of MBPP under PEPRA.
RECOMMENDED ACTION: EXCLUDE MBPP FROM PENSIONABLE COMPENSATION DUE TO DEFICIENCY IN MEETING PEPRA CRITERIA.
Time: 9:30 a.m.

1. Staff Letter dated September 11, 2017.

2. Staff Memorandum dated June 19, 2017, with Attachments.
Previously Provided.

3. County Response to Staff Memorandum, dated September 7, 2017.

Ms. Webb said that this item had been tabled at the June business meeting, and the staff letter provided an update regarding the item.

Received public comment from SEIU 721 Tri-County Regional Director, Danny Carrillo.

Received public comment from the Ventura County Assistant County Executive Officer/Human Resources Director, Shawn Atin.

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

MOTION: Table Item VI.A to the September 25, 2017 Board Meeting.

Moved by Johnston.

Following further discussion by the Board, Trustee Johnston amended his motion, to following:

MOTION: Table Item VI.A to the September 25, 2017 Board Meeting, and Release the Outside Counsel's Attorney-Client Privileged Memorandum.

Moved by Johnston, seconded by Bianchi.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, McCombs, Johnston, Wilson, Winter
No:
Absent: Foy, Hintz, Sedell

Following the vote on this item, the Board returned to agenda items V.D.

B. Determine Pensionability of HCA Fiscal Premium Pay.
RECOMMENDED ACTION: EXCLUDE HCA FISCAL PREMIUM PAY FROM PENSIONABLE COMPENSATION DUE TO DEFICIENCY IN MEETING PEPRA CRITERIA.

1. Staff Letter dated June 19, 2017, with Attachments.
Previously Provided.

Ms. Webb said that this item was tied to Item VI.A. and was addressed in outside counsel's memorandum.

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

MOTION: Table Item VI.B to the September 25, 2017 Board Meeting.

Moved by Goulet, seconded by Bianchi.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No:
Absent: Foy, Hintz, Sedell

VII. NEW BUSINESS

A. Recommendation to Approve Extension to VSG Hosting Agreement and Request for Direction on Governing Law Provision for Subsequent Contract Term.
RECOMMENDED ACTION: APPROVE EXTENSION AND DIRECT STAFF ON GOVERNING LAW PROVISION FOR SUBSEQUENT CONTRACT TERM.
1. Staff Letter.

2. Proposed Amendment.

Ms. Webb said that staff had been negotiating with Vitech on a new hosting agreement because the previous one had expired. However, Vitech's proposed agreement had significant changes, and staff was not ready to execute it. She said that as negotiations continue, a contract needed to be in place for invoicing purposes.

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

MOTION: Approve Contract Extension Until Replaced by a New Hosting Agreement.

Moved by Goulet, seconded by Bianchi.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No:
Absent: Foy, Hintz, Sedell

B. Proposed Legislative Items for Submission to the SACRS Legislative Committee, Trustee Goulet.

1. Staff Letter.

2. Proposed Provision to Define "Surviving Spouse".

3. Proposed Amendment Regarding Time Limits for Filing Application for Disability Retirement.

Trustee Goulet informed the Board that both proposals, which were prepared with General Counsel, result from issues presented in recent litigation and decisions and these proposals are an attempt to resolve the issues legislatively. He said the first proposal is to define the term "surviving spouse". The other proposes a time limit for the filing for disability retirement, requiring that where a member is continuously incapacitated after discontinuance of service, the application must be filed within 4 months of when the member is able to ascertain permanency. Trustee Goulet said the recommendations may not result any action because they would be submitted to the SACRS Legislative Committee, who may decide not to pursue these issues, but if the Board does not make a recommendation, then there would be no chance for any action on these proposals.

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

MOTION: Move to Submit the Recommendations to the SACRS Legislative Committee.

Moved by Wilson, seconded by Winter.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter

No:
Absent: Foy, Hintz, Sedell

C. Recommendation to Approve Trustee Sedell and C.I.O., Dan Gallagher Attendance at 2017 Annual Private Equity Conference, New York, NY, September 28, 2017.

1. Staff Letter.

2. 2017 Conference Agenda.

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

MOTION: Approve.

Moved by Goulet, seconded by Winter.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No:
Absent: Foy, Hintz, Sedell

D. Recommendation to Approve Staff's Attendance at NPEA 2017 Annual Conference, Nashville, TN, October 14 – 18, 2017.

1. Staff Letter.

2. NPEA 2017 Annual Conference Agenda.

Ms. Webb said no specific staff member was identified in the request because it was unclear if the vacant communications position would be filled by that time. However, if it was not, another staff member would attend to represent VCERA.

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

MOTION: Approve.

Moved by McCombs, seconded by Johnston.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No:
Absent: Foy, Hintz, Sedell

E. Recommendation to Approve Retirement Administrator's Attendance at CALAPRS Administrators' Institute, Carmel, CA, September 13 – 15, 2017.

1. Staff Letter.

2. CALAPRS Administrators' Institute Agenda.

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

MOTION: Approve.

Moved by Winter, seconded by Fox.

Vote: Motion carried
Yes: Bianchi, Fox, Goulet, Johnston, McCombs, Wilson, Winter
No:
Absent: Foy, Hintz, Sedell

VIII. INFORMATIONAL

A. *Irvin v. Contra Costa Employees' Retirement Association*, Case No. S243694, Letter in Support of Petition for Review.

B. *Segal Consulting Survey Shows Majority of Multiemployer Pension Plans in Green Zone; But Challenges Remain for Those in Red Zone.*

IX. PUBLIC COMMENT

None.

X. STAFF COMMENT

Ms. Webb reminded the Board that the Board Retreat was at the Ventura Beach Marriott on September 25, 2017. Ms. Webb also reminded the Board of the 2017 Nossaman Fiduciary Forum scheduled for the end of November.

Ms. Nemiroff informed the Board that there was letter in support of the Irvin v. Contra Costa Employees' Retirement Association in the informational section of the agenda.

Ms. Webb told the Board that VCERA's new website would be launched before the next meeting.

Mr. Gallagher said that he was continuing to monitor any impact to VCERA's portfolio related to hurricanes Harvey and Irma.

XI. BOARD MEMBER COMMENT

None.

XII. ADJOURNMENT

The meeting was adjourned at 10:54 a.m.

Respectfully submitted,

LINDA WEBB, Retirement Administrator

Approved,

TRACY TOWNER, Chairman