

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

JULY 1, 2019

MINUTES

**TRUSTEES
PRESENT:**

William W. Wilson, Chair, Public Member
Mike Sedell, Public Member
Arthur E. Goulet, Retiree Member
Robert Ashby, Safety Member
Will Hoag, Alternate Retiree Member
Ed McCombs, Alternate Public Member

**TRUSTEES
ABSENT:**

Robert Bianchi, Vice-Chair, Public Member
Steven Hintz, Treasurer-Tax Collector
Steve Bennett, Public Member
Craig Winter, General Member

**STAFF
PRESENT:**

Linda Webb, Retirement Administrator
Lori Nemiroff, General Counsel
Henry Solis, Chief Financial Officer
Julie Stallings, Chief Operations Officer
Dan Gallagher, Chief Investment Officer
Leah Oliver, Chief Technology Officer
Shalini Nunna, Retirement Benefits Manager
Josiah Vencel, Communications Officer
Donna Edwards, Retirement Benefits Specialist
Nancy Jensen, Retirement Benefits Specialist
Chris Ayala, Program Assistant
Shalaine Nolan, Office Assistant III-C

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 Wilson called the Disability Meeting of July 1, 2019 to order at 9:01 a.m.

II. APPROVAL OF AGENDA

Trustee Goulet made a motion to have agenda item V.A., the disability retirement application for Brian D. Dilley, continued until Ventura County Risk Management could amend the report to include written answers to staff's questions instead of the Board hearing Risk Management's verbal response.

Ms. Webb noted that staff had sent questions to Ventura County Risk Management last week and asked for an amended report, but Risk Management indicated it intended to address the questions before the Board verbally due to time constraints.

Trustee Goulet said that he also had questions for the applicant, who was not present.

Ms. Edwards said that the applicant had a legal representative in attendance.

Trustee Goulet replied that he had questions specifically for the applicant. He repeated that he would like the case to be continued at the next available Board meeting.

Ms. Laveau, Ventura County Risk Management, stated that VCERA had not provided the report until June 24 and requested that an amended version be returned by June 26 in order to be placed on the current Board agenda. Due to previous engagements, she had been unable to guarantee its completion by then, but that VCERA's staff agreed that an amended report would not be required and that a verbal response to the questions would suffice.

Mr. Roberson introduced himself as the contracted attorney assigned to the case by Risk Management. He said that due to a vacation, he had not returned to the office until June 26 and was therefore unable to amend the report by VCERA's deadline.

Trustee Sedell said that since staff agreed that the questions posed to Risk Management could be addressed verbally, he believed the Board should proceed with hearing the disability case, as long as Trustee Goulet's questions could be answered by the applicant's legal counsel. Trustee Sedell also inquired about the downside of continuing the case at a future meeting.

Ms. Webb replied that continuing the case would cause more delay for the applicant and that she was unsure if Risk Management could address all the questions in writing by the Business Meeting on July 15, which was the last scheduled meeting prior to September.

Chair Wilson asked Ms. Webb if she recommended that the case be deferred to the next Board meeting in July or later.

Ms. Webb replied that until she heard Risk Management's answers to the issues raised by VCERA staff, it would be difficult to make a recommendation.

Ms. Laveau requested confirmation that there was an agreement between Risk Management and VCERA to proceed with the Dilley case at the July 1 meeting using only verbal responses rather than waiting for an amended report.

Ms. Nemiroff believed that in its correspondence with Risk Management, VCERA had agreed to allow the case to remain on the agenda and not to continue it, at Risk Management's request, due to its time sensitivity if Risk Management's responses were given verbally. She also noted that VCERA did not say that an amended written report was not required.

Ms. Laveau replied that she never claimed she could not produce an amended report, but she would make every effort to supply the amended report to VCERA by the June 26 deadline. She also noted that in a phone conversation with VCERA staff, she asked if the amended report would be needed by June 26 to keep the case on the July 1 meeting agenda, and staff said it was not required.

Trustee Sedell believed it would be best to have the written amended report on record, so he supported continuing the case at the next Board meeting.

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

MOTION: Approve with Deferral of the Disability Retirement Application for Brian D. Dilley Until the Business Meeting of July 15, 2019.

Moved by Goulet, seconded by Sedell.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

III. APPROVAL OF MINUTES

A. Disability Meeting of June 3, 2019.

Ms. Webb said that the minutes for the June 3, 2019 Disability Meeting were being presented to the Board again because staff discovered that the Board did not have a quorum to approve the minutes on June 17, 2019, as one trustee had abstained from the vote.

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

MOTION: Approve.

Moved by Sedell, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

B. Business Meeting of June 17, 2019.

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

MOTION: Approve.

Moved by Ashby, seconded by McCombs.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT

MOTION: Receive and File.

Moved by Sedell, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

V. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-connected Disability Retirement - Dilley, Brian D.; Case No. 16-012.

1. Application for Service-connected Disability Retirement, filed March 16, 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 June 17, 2019.
3. Hearing Notice, dated June 19, 2019.

No action was taken by the Board, as indicated in Item II, Approval of Agenda.

VI. OLD BUSINESS

None.

VII. NEW BUSINESS

A. Report & Recommendation on PEPRA Pensionable Compensation Analysis for Pay Codes Implemented Since October 22, 2018.

RECOMMENDED ACTION: Approve.

1. Staff Letter, with Pay Code Analysis.

Ms. Webb said there were four new pay codes added by the County of Ventura since the last periodic review by the Board for inclusion in pensionable compensation. Staff agreed with the County that pay codes NDH and NDS should be included and that pay codes B2P and B3P should be excluded. She noted that the County had categorized the pay codes as such since their inception, so no corrective action was needed.

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

MOTION: Approve and Adopt Staff Recommendations Regarding the Inclusion in or Exclusion from Pensionable Compensation the Specific Pay Codes Provided, Effective on the Initial Dates of Payment by the Employer, Adding Included Codes to Addendums to the Board Resolution Regarding Pensionable Compensation.

Moved by Goulet, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

B. Trustee Input on Pending VCERA 2019-20 Business Plan.

1. Staff Letter.

2. 2018-19 Business Plan.

Ms. Webb asked the Board to review VCERA's current business plan and provide input, as staff was preparing a new business plan for the 2019-20 fiscal year.

No action was taken by the Board.

C. Periodic Review of Board Policies: Business Planning, Portable Electronic Mobile Devices, and Education and Travel.

1. Business Planning Policy.

RECOMMENDED ACTION: Approve with No Change.

a. Staff Letter.

b. Current Business Planning Policy.

Ms. Webb said that the Business Planning, Portable Electronic Mobile Devices, and Education and Travel policies were up for review.

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

MOTION: Approve Business Planning Policy with No Changes.

Moved by Sedell, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

2. Portable Electronic Mobile Devices Policy.

RECOMMENDED ACTION: Approve.

a. Staff Letter.

b. Proposed Portable Electronic Mobile Devices Policy (Redline).

c. Proposed Portable Electronic Mobile Devices Policy (Clean).

Ms. Webb said she believed revisions to the renamed Mobile Device Policy would enhance the security of VCERA's devices and data.

Trustee Goulet offered a couple of typo corrections to the policy: "HIPAA" was misspelled on page 1 and "to" was missing on page 3, item 16.

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

MOTION: Approve Mobile Device Policy with Corrections.

Moved by Ashby, seconded by Sedell.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

3. Education and Travel Policy.

RECOMMENDED ACTION: Review and Provide Direction.

a. Staff Letter.

b. Current Educational and Travel Policy.

Ms. Webb said that staff had identified issues in the policy which needed potential clarification from the Board before proceeding. She asked that the Board either provide policy direction to staff or designate trustees to work with staff to develop recommendations.

Chair Wilson asked how VCERA's policy differed from the County's policy.

Ms. Webb replied that a significant difference related to VCERA's due diligence requirement. The goal would be to improve transparency without creating an undue burden for the traveler.

Trustees Sedell and Ashby offered to work with staff to help resolve the policy issues.

No action was taken by the Board.

- D. Report on Due Diligence Visit to State Street Bank, Submitted by C.I.O., Dan Gallagher, and C.F.O., Henry Solis.

RECOMMENDED ACTION: Receive and File.

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

MOTION: Receive and File.

Moved by Sedell, seconded by Ashby.

Vote: Motion carried

Yes: Ashby, Goulet, McCombs, Sedell, Wilson

No: -

Absent: Bennett, Bianchi, Hintz, Winter

Abstain: -

VIII. INFORMATIONAL

- A. Budget Update for Fiscal Year 2018-19 for Investment Legal Costs.

1. Staff Letter by C.I.O., Dan Gallagher.

Ms. Webb said that since VCERA had expanded its private equity portfolio, there were significantly higher legal costs than initially estimated, resulting in a mid-year budget adjustment approved by the Board. Upon realizing that VCERA would exceed that adjusted budget limit, she asked the C.I.O. to draft a memorandum explaining the circumstances to the Board.

Trustee Goulet appreciated the advance notice but added that no action may be necessary other than approving the final budget.

IX. PUBLIC COMMENT

Mr. Tracy Towner read the following statement and requested that it be included in the record:

Good morning fellow board members and members of the public. First and foremost, I can't express enough my sincere and deep appreciation for the Board's and staff's patience as you have allowed me to utilize and enforce my Due Process rights to clear my name and for your unwavering belief in my honesty and integrity. After I was given notice that The District Attorney's Office intended to fire me, I took a polygraph test to prove to them I told the truth. I obtained a great result and then that fact was promptly ignored by my employer. As if being fired was not humiliating enough, then the District Attorney's office publicly disclosed portions of my confidential peace officer personnel documents with accusations that were false. Those allegations were NOT sustained by a panel of independent individuals, appointed by members of the Board of Supervisors, who heard the evidence. While it has taken 14 months to get here, please know that with the exception of one day, when my attorney had a family emergency on the eve of one of my hearing dates, the DA and the County is responsible for this 14 month's process. As I sit here this morning, it appears the delays by the DA and the County may

continue. Last Thursday, my lawyer was informed that the Civil Service Commission had voted to reinstate me with back pay and benefits and that they did not sustain one of the allegations against me. Therefore, last Friday, at 7:58 in the morning, which is when the DA Lobby door was open to the public, I reported for duty. After sitting in the DA Office lobby for almost 2 hours, my lawyer was told to contact the DA's outside counsel, who later said he would get back to us after they receive and review the Commission's written decision and they decide what they are going to do with me. The District Attorney's decision on Friday to not let me in the door, may or may not create an issue for this Board. I want to be allowed to sit on this board now, because my constituents elected me to sit on this Board. Today, I am speaking as a member of the public because the DA refused to accept me back into the office on Friday despite the decision of the Commission. I seek to fulfill my fiduciary duty to the active and retired employees of Ventura County and to the Taxpayers of Ventura County. I would like to tell you that I expect to be back on this Board tomorrow. Please know that we are trying to make that happen. However, given the history of public funded litigation I have seen over the last 10 years, there may be an appeal of the Civil Service Commission's decision. We will have to wait and see. You might find it unimaginable that after 20 years as an honest and loyal employee of the county who has followed the county's rules, procedures and relevant state laws, the DA and County might appeal their own rules, their own process or their OWN commission. Given what they have put me through thus far, all is imaginable to me now. I am here because I wanted to publicly Thank you for your support thus far. Thank you for your support as I continue to try to move the process forward as fast as I can and as I continue my efforts to repair the damage the false allegations have done to me and this Board. Please know that your trust in me and patience with the process is warranted as I have done nothing wrong. Thank you for your patience thus far and in the future as I seek justice not only for me but for others that can so easily and falsely be accused of wrong doing.

X. STAFF COMMENT

Ms. Webb said that due to Trustee Shapiro's resignation from the Board, effective July 1, staff would begin the election process to fill the resulting vacancy. She reminded the Board that it would not meet in August and that its off-site retreat would be held in September. Ms. Webb said that she and the Communications Officer had produced an orientation video for new trustees. Ms. Webb commented that the response of Diligent was positive following a technical issue discovered in its software. She also noted that building requirements of the City of Ventura could potentially delay the renovation project.

XI. BOARD MEMBER COMMENT

Chair Wilson asked how to obtain ethics training, and Ms. Webb replied that the required trustee trainings were available online and that staff would email to the Board links to the training courses.

XII. ADJOURNMENT

The meeting was adjourned at 9:42 a.m.

Respectfully submitted,



LINDA WEBB, Retirement Administrator

Approved



WILLIAM W. WILSON, Chairman

