

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

MAY 6, 2019

MINUTES

TRUSTEES
PRESENT: William W. Wilson, Chair, Public Member
Robert Bianchi, Vice-Chair, Public Member
Steven Hintz, Treasurer-Tax Collector
Steve Bennett, Public Member
Dan Shapiro, General Member
Mike Sedell, Public Member
Arthur E. Goulet, Retiree Member
Will Hoag, Alternate Retiree Member
Ed McCombs, Alternate Public Member

TRUSTEES
ABSENT: Steven Hintz, Treasurer-Tax Collector
Craig Winter, General 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
Leah Oliver, Chief Technology Officer
Shalini Nunna, Retirement Benefits Manager
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 May 6, 2019, to order at 9:01 a.m.

II. APPROVAL OF AGENDA

MOTION: Approve.

Moved by Bianchi, seconded by Hoag.

Vote: Motion carried

Yes: Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Bennett, Hintz, Winter

Abstain: -

III. APPROVAL OF MINUTES

A. Disability & Business Meeting of April 15, 2019.

MOTION: Approve.

Moved by McCombs, seconded by Hoag.

Trustees Bianchi and Sedell said that they would abstain because they were not present at the Disability & Business Meeting of April 15, 2019.

Ms. Nemiroff reminded the Board that the Trustees who were not present at the April Board meeting were not required to abstain, and the Board was also not required to approve the minutes because the Chair was authorized to approve minutes independently.

Following discussion by the Board, Trustee McCombs withdrew his motion.

The minutes for the Disability & Business Meeting of April 15, 2019 were accepted by Chair Wilson.

IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT

Trustee Goulet noted the report listed delinquent disability applications and noted that the Inman disability case had been ongoing for three years.

Regarding the Inman case, Ms. Edwards replied that the counsel for the Ventura Regional Sanitation District (VRSD) stated that the agency was waiting for more evidence from the applicant's Worker's Compensation case before proceeding with VCERA's disability case.

Ms. Nemiroff said that if there was no permanent-stationary report for the applicant, then the disability case could not move forward.

Trustee Goulet noted that VCERA did not know whether there was a report yet.

Ms. Edwards said she had not received information about the case from VRSD in some time.

Ms. Nemiroff said that if there were a permanent-stationary report, the Board could request that VRSD take a position on the case.

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

MOTION: Receive and File.

Moved by Goulet, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Bennett, Hintz, Winter

Abstain: -

V. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-connected Disability Retirement - Olivera, Miguel T., Jr.; Case No. 17-016.

1. Application for Service-connected Disability Retirement, filed July 25, 2017.
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 April 17, 2019.
3. Hearing Notice, dated April 23, 2019.

Catherine Laveau was present on behalf of Ventura County Risk Management. The applicant, Miguel T. Olivera, was also present.

Trustee Bennett arrived at 9:05 a.m., before the vote on this item.

Both parties declined to make statements.

Trustee Goulet said the physician's report indicated that Mr. Olivera was significantly overweight. He asked if there was any examination as to whether the applicant's weight contributed to his injury.

Ms. Laveau replied that the Causation Section of the Risk Management report stated that all co-morbidities, including obesity, were considered by the physician, who found that 100% of one of his injuries was work related and 85% of his other injury was work related.

Mr. Olivera explained that his injuries had contributed to his inability to exercise, which had negatively impacted his weight.

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

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Bianchi, seconded by Sedell.

Vote: Motion carried

Yes: Bennett, Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Hintz, Winter

Abstain: -

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

Responding to Trustee Goulet's comment regarding delinquent disability cases from Ventura County Risk Management, Ms. Laveau believed there was only one overdue report because of staff turnover in the applicant's department, which delayed Risk Management's receipt of required information. She expected the report to be presented to the Board at its Disability Meeting in June.

VI. OLD BUSINESS

Update on Safety Member Special Election.

Ms. Webb said that VCERA had arranged to hold an election to fill the Safety member seat on the Board, but only one candidate, Robert Ashby, had filed nomination papers. Staff would recommend to the Board of Supervisors that no election be held and that a unanimous ballot be cast in favor of the unopposed candidate.

VII. NEW BUSINESS

A. Recommendation for Disability Retirement Medical Re-Evaluation Under Government Code 31729.

RECOMMENDED ACTION: Approve.

1. Staff Letter.

Ms. Webb said that this case was brought to staff's attention by Ventura County Risk Management, who had received the initial report in 2013 through Ventura County's Fraud Hotline, but did not refer it to VCERA at that time because of a false assumption that if the former employer would not reinstate the former employee, the issue did not need to be reported to VCERA. When Risk Management recently learned this assumption was incorrect, they forward the complaint information to VCERA. Staff had provided confidential information under separate cover for the Board to review, which staff believed was sufficient to recommend a re-evaluation of the retiree's disability.

MOTION: Approve.

Moved by Sedell, seconded by Bianchi.

Vote: Motion carried

Yes: Bennett, Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Hintz, Winter

Abstain: -

- B. Recommendation to Authorize Retirement Administrator to Execute 10-Year Lease with M.F. Daily and to Engage Project Manager for Tenant Improvements.

RECOMMENDED ACTION: Approve.

1. Staff Letter.

- a. Attachment A: Proposed Lease Agreement.
- b. Attachment B: Proposed Project Manager Agreement.

Ms. Webb clarified that the recommendation was from the Real Estate Committee, in coordination with staff. Over the past few months, the committee and staff met with Mr. Dwyer of CBRE, who had represented VCERA in past negotiations. Both staff and the committee believed the provided recommended lease agreement was ready for execution. Ms. Webb appreciated that the committee also recommended the engagement of a project manager.

Trustee Goulet raised concerns about the proposed lease agreement, specifically Section 25 which stated that anything not changed from the current lease remained in effect, and the lack of enumeration on what specifically remained in effect could lead to disputes in the future. Also, he asked if the repair and maintenance of the elevator and VCERA's contribution to renovations were captured under the "operational expenses" section.

Ms. Webb said the reason the new lease only listed items to be changed was based on Mr. Dwyer's assurance that this was a common practice and to VCERA's contractual advantage.

Ms. Nemiroff said in her reading of Section 16 of the agreement, the landlord was obligated to pay 100% of the cost of the new elevator. Once the overhaul was completed, VCERA would be required to pay its proportionate share of any ongoing repair or maintenance as an operating expense. But if M.F. Daily failed to perform the elevator work within 24 months, VCERA could pay for the overhaul and be reimbursed by the landlord.

Trustee Goulet believed the lease agreement lacked clarity, and respectfully disagreed with the Real Estate Committee regarding leasing the current building instead of purchasing one.

Trustee Bianchi remarked that the committee had considered leasing versus purchasing at length.

Ms. Webb added that Trustee Goulet had communicated to staff that he was not comfortable with the lease format used by M.F. Daily, but that Mr. Dwyer was very familiar and comfortable with the format because of prior dealings with this specific landlord.

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

MOTION: Approve Lease Agreement with M.F. Daily Corporation and Approve Project Management Agreement, not to Exceed \$35,000; and Authorize Retirement Administrator to Execute Lease Agreement and Project Management Agreement.

Moved by Sedell, seconded by Bianchi.

Vote: Motion carried

Yes: Bennett, Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Hintz, Winter

Abstain: -

- C. Recommendation for Authorization for C.I.O. to Accept Limited Partners Advisory Committee (LPAC) Seat on Drive Capital Fund III, and LPAC Observer Seat on OverDrive Fund I.

RECOMMENDED ACTION: Approve.

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

Mr. Gallagher explained the advantages to accepting seats on the Drive Capital advisory boards and summarized the contract provisions for participation at LPAC meetings.

Ms. Nemiroff clarified that staff's recommendation was for the Board to ratify the acceptance of the seats, with Mr. Gallagher as the designee, as provided for in the previously signed side letters with Drive Capital.

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

MOTION: Ratify the Acceptance of the Seat on the Limited Partners Advisory Committee for Drive Capital Fund III and the Observer Seat on OverDrive Fund I.

Moved by Bianchi, seconded by Shapiro.

Vote: Motion carried

Yes: Bennett, Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Hintz, Winter

Abstain: -

Trustee Goulet asked about the travel costs of the CIO attending advisory board meetings, and Mr. Gallagher replied that observer meetings are typically held on the same day as LPAC meetings, so additional travel expenses are not expected.

Ms. Nemiroff said only attendance at LPAC meetings are reimbursable, so if an observer meeting took place on a different day, Mr. Gallagher would need to bring a travel request to the Board in order to attend.

Trustee Sedell proposed giving authority to the Retirement Administrator to approve travel expenses if an observer meeting was held on a different day.

Trustee Goulet agreed.

- D. Recommendation for Authorization for General Counsel to Attend the NAPPA 2019 Spring Seminar, June 25 – June 28, 2019, San Diego, CA.

RECOMMENDED ACTION: Approve.

1. Staff Letter.
2. NAPPA 2019 Spring Seminar Brochure.

MOTION: Approve.

Moved by Goulet, seconded by Bianchi.

Vote: Motion carried

Yes: Bennett, Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Hintz, Winter

Abstain: -

- E. Recommendation for Authorization for Retirement Administrator to Attend the CALAPRS Administrators' Round Table, June 21, 2019, San Jose, CA.

RECOMMENDED ACTION: Approve.

1. Staff Letter.

MOTION: Approve.

Moved by Bianchi, seconded by Sedell.

Vote: Motion carried

Yes: Bennett, Bianchi, Goulet, Hoag, McCombs, Sedell, Shapiro, Wilson

No: -

Absent: Hintz, Winter

Abstain: -

Trustee Sedell said if this type of travel request was already in the budget, the Retirement Administrator should have the authority to approve it independent of the Board. He requested a future agenda item for the Board to grant the Retirement Administrator this authority.

Ms. Nemiroff noted that this subject is addressed in the Education & Travel Policy and that when the policy comes to the Board for review, it could be addressed.

VIII. INFORMATIONAL

- A. Invitation to the Adams Street Partners 2019 US Investor Conference.

IX. PUBLIC COMMENT

None.

X. STAFF COMMENT

Ms. Webb said that staff anticipated bringing the proposed annual budget to the next Business Meeting, but the agenda item could possibly be delayed until the Disability Meeting in June. Also, she said staff had recently learned that from 2010 to 2017, VCERA miscalculated the supplemental benefits of 17 retirees who had split accounts due to divorce. Of that total, 15 retirees received overpayments and 2 received underpayments. Staff had contacted the affected members about the adjustment of their supplemental benefits prospectively and recovery of the overpaid amounts.

XI. BOARD MEMBER COMMENT

Trustee Goulet apologized for his recent poor attendance and inquired about participating in meetings via phone call. Ms. Nemiroff replied that phone participation among trustees requires public notice and is not a good precedent to set.

Trustee Bennett commented that in regard to the upcoming office renovation, the Board's new sound system must be reliable. Ms. Webb responded that this issue had indeed been identified as needing an upgrade.

XII. ADJOURNMENT

The meeting was adjourned at 9:47 a.m.

Respectfully submitted,



LINDA WEBB, Retirement Administrator

Approved,



WILLIAM W. WILSON, Chairman