

**MINUTES**

**REGULAR BOARD MEETING  
MARIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

**One McInnis Parkway, 1<sup>st</sup> Floor  
Retirement Board Chambers  
San Rafael, CA**

**July 8, 2009, 9:00 A.M.**

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<b><u>EVENT CALENDAR</u></b>	9:00 A.M. Retirement Board Meeting
<b><u>CALL TO ORDER</u></b>	Chairperson Phillips called the meeting to order at 9:18 A.M.
<b><u>ROLL CALL</u></b>	Present: Arrigoni, Bolger, Given (non-voting), Gladstern, Hufford, Phillips, Richardson, Smith, Sweet, Webb Absent: Wofford (non-voting), Haim
<b><u>MINUTES</u></b>	May 20, 2009 Regular Meeting June 3, 2009 Special Meeting

It was M/S Gladstern/Hufford to approve the May 20, 2009 minutes of the regular meeting as amended.

AYES: Arrigoni, Gladstern, Hufford, Phillips, Smith, Sweet, Webb  
NOES: none  
ABSTAIN: Bolger, Richardson  
ABSENT: Wofford (non-voting), Haim

It was M/S Arrigoni/Gladstern to approve the June 3, 2009 minutes of the Special Board Meeting as submitted.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson,  
Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

**A. BOARD OF RETIREMENT MATTERS**

1. Administrator's Report (Oral)

a. Grand Jury Report

Administrator Benner reported that copies of the Grand Jury report were distributed to all board members and that a draft response was being prepared by with the assistance of Attorney Dunning. Trustee Webb opined that responses should be prepared by the Governance Committee. Trustee Gladstern raised concerns about timeliness of the response. The Chair noted that the Board is legally required to respond and that the initial draft would be presented to the full board at the August meeting. Counsel Dunning said that the response is dictated

in part by law, and could be drafted either by a committee or the full Board, if they followed the response format.

Trustee Smith suggested that the Board go through the recommendations and agree or disagree. Trustee Gladstern expressed concern about reaching consensus on responses.

Trustee Bolger stated that she was very disappointed with the Grand Jury report, and that it challenged the Board to take action. She suggested that the responses should be brief, and each section referred to the appropriate board committees for review and recommendations to the full board.

Trustee Hufford commented favorably on the recommended approach. The Chair will assign responses to the various committees and directed the Administrator to work with counsel and the committees to develop responses within the 90 day response period.

b. Report on Chicago GSB High Performance Leadership Training

The Administrator reported on the leadership conference she attended recently, noting that amongst the items covered during the session were findings of a 25 year long study by the Gallup Organization that identified 34 dominant human strengths, after interviewing more than 2 million individuals. The objective of the study was to identify leadership themes that could be leveraged for professional development as well as for managerial and organizational success. She noted that MCERA is focused on developing high performance teams, and that the information garnered from the study could be very helpful in achieving that objective.

The study found that employees in most organizations studied fell into three groups (20%/60%/20%) and that each group benefitted from different management approaches and working environments. Ms. Benner discussed the feasibility of utilizing the survey to assist in developing working teams for various departmental assignments. She noted that according to the multi-year study, high performing teams embraced turnover from within the bottom 20% of the organization, commenting that the study confirmed that turnover is not always detrimental to an organization.

According to the study, the middle 60% of staff are the backbone of the organization and perform best when they feel supported by the organization and management. A recent confidential survey indicated that MCERA staff feels that the Board is too focused on past negatives, and has not recognized the significant improvements made in recent months.

Trustees expressed concern that conducting a strengths assessment could lead to labeling. The Administrator clarified that the assessment identified individual strengths in positive terms, and did not identify 'the bottom 20%'. Rather, the results of the assessment could be used by management to better understand the

skills and needs of the staff, to create a supportive work environment, and to assemble project teams whose members had complementary strengths.

In response to comments regarding the strengths assessment vs. the County's review process, Benner noted that MCERA is one of the few county departments whose performance evaluations are up to date, and that the Strengths Finder was an analytical tool, not a tool to rate performance. Trustee Sweet complemented the Administrator for her strong interest and continuing efforts in the area of staff development.

Trustee Hufford commented favorably on the possible use of the Strengths Finder, suggesting that additional discussion be agendaized for a future meeting. Ms. Benner reported that the course facilitator (who utilized the Strengths Finder as one of many concepts) regularly worked with corporate boards and would consider meeting with the Retirement Board at an upcoming workshop.

Administrator Benner reported that a confidential survey of staff attitudes conducted by Ms. McGovern, the board's group process facilitator, indicated that many staff members feel that their hard work and dedication is not being recognized by the board, which continues to focus on outdated and negative impressions. She indicated that Ms. McGovern would present her findings at the August meeting and be available for comments. The Chair acknowledged the comments from staff as well as the need to improve relations. Administrator Benner summarized by confirming that the findings of the staff survey were overwhelmingly positive, and that the staff felt very positive about the work they were doing, the support they received from management, the quality of leadership, and that morale had improved significantly during the last several months.

Chair Phillips suggested that further discussion be agendaized for a future meeting. Trustee Bolger expressed concern regarding the staff's negative sentiments regarding the lack of board support.

c. Update on CPAS implementation

Administrator Benner reported that the second 'build' of the CPAS system would arrive next week, that a number of bugs had been identified by the MCERA test teams, and that staff involvement was very high. The project is on schedule and going very well.

Trustee Smith raised questions regarding handouts that were provided along with the Administrator's oral report. Counsel Dunning clarified that if there were substantive discussion on any items, the provision of supporting documentation facilitated that discussion. Benner suggested that in the future, handouts would be listed under "other information".

d. Update on legislative process re: administrative budgets

The Administrator reported on SACRS' progress in Sacramento regarding proposed amendments to the administrative budget cap language, stating that

several proposals had been rejected by SEIU. No additional details were available. SACRS recommended that the item be converted to a two year bill.

Trustee Benner reported that the current proposal recommends that budgets be referenced to plan liabilities rather than plan assets, as the former are less volatile.

e. 6/30/09 plan asset balance

The Administrator reported that preliminary (unaudited) figures from State Street show MCERA closing the fiscal year with assets down 2% vs. year ago, noting that audited figures would be available shortly. Benner noted that appraisals on two of MCERA properties showed declines of 12%.

In response to a question from Trustee Smith, the Administrator stated that changes from year to year in “assets under management” is not the same as returns for the portfolio.

f. Update on staff teambuilding activities

The Administrator reported that the offsite team-building meeting held on June 25<sup>th</sup> was very productive. The facilitator, Mary McGovern, will provide a report to the Board at the August Board meeting.

g. Other

Administrator Benner pointed out that for the ad hoc Education Committee should meet in the near future to discuss potential topics for the September Board Strategic Workshop.

She also reported that the only nominating petitions for Retiree and Retiree Alternate Trustee were received from the incumbents. As a result, no election will be held and the incumbents will be reappointed at the end of their current terms.

Proposed Meeting Calendar. The Administrator circulated a list of proposed meeting dates for board and committee meetings through December 2010, noting that it had been reviewed by Jim Callahan and Ashley Dunning who confirmed their availability. The proposed schedule reflects a two-day-per-month schedule and was developed in cooperation with the administrative staff. Benner requested that Board members with questions about the proposed schedule call her directly to discuss. In the absence of additional input, the calendar will be finalized and published. Counsel Dunning noted that special meetings can be added at any time.

Trustee Webb stated that the retiree newsletter is generally listed under information items. Trustee Gladstern responded that the newsletter was not yet available on the MCREA website.

2. Committee Reports

a. Finance and Risk Management Committee

1. Recommend action on administrative budget for FY 2009-2010 (Action)

Committee Chair Arrigoni reported that the committee recommends that the Board adopt the prior year's final budget as the interim budget for the current year, subject to additional input and future recommendations by the committee. The next meeting of the Finance and Risk Management Committee is scheduled for July 14. The committee requested Board approval to retain John Maher, CPA to assist with developing a new budget format. Trustee Arrigoni was instructed by the board to contact Mr. Maher to obtain a quotation for services.

Trustee Smith made a motion to adopt last year's budget as an interim budget for the current fiscal year. Counsel Dunning clarified that neither a motion nor public comment were required to approve recommendations made by a standing committee.

Chairperson Phillips asked for comments and called for the vote.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson, Smith, Sweet, Webb

NOES: none

ABSTAIN: none

ABSENT: Wofford (non-voting), Haim

b. Governance Committee

1. Recommend adoption of addition to Code of Fiduciary Conduct regarding Communications with Electorate (Action)

Committee Chair Gladstern reported that the committee recommended adoption of a proposed amendment to the Code of Fiduciary Conduct regarding communications to the electorate regarding campaigns for ballot measures or election of candidates.

Gladstern clarified that in Salinas, the Vargas Case raised this issue and that the proposed amendment sought to clarify it for the board. Discussion continued with the applicability of Vargas to the proposed ballot initiative regarding public sector retirement benefits.

The ability of trustees to weigh in on the current Richman initiative was also discussed. Counsel Dunning stated that the proposed amendment was in response to direction from the board to provide clarification. Dunning commented that Board members may comment on pending legislation so long as it is clear that the member is not speaking on behalf of the Board, unless authorized to do so. Counsel Dunning confirmed that the Board cannot spend MCERA money advocating positions.

Chairperson Phillips called for a vote to amend the Code of Fiduciary Conduct regarding Communications with Electorate.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson, Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

2. Recommend revisions to all Standing Committee Charters regarding the process for working with staff and professional advisors (Action)

Trustee Gladstern reported that the committee recommended a clarifying modification to Section 8 of each charter regarding the process for communicating with professional advisors.

The Chair asked for comments, then called for a vote to approve the revision to all existing Standing Committee Charters regarding the process for working with staff and professional advisors as submitted.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson, Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

3. Report on placement agent, and other, policy development status

Trustee Gladstern stated that the objective of a placement agent policy was to provide transparency regarding the use by managers of placement agents. A draft policy will be developed in September for submission to the board in October. Trustee Bolger stated that a draft policy should be circulated to managers to determine if they can comply.

Counsel Dunning noted that legislation is working its way through the Senate in California and that a policy adopted by the Board should be flexible enough to conform to legislation adopted at the State level.

3. Trustee Comments

Chairperson Phillips stated that the Administrator's self-evaluation is due shortly, and will be circulated when received. Board member evaluations are due by August 12<sup>th</sup>. An ad hoc committee will commence development of business objectives for the Administrator for the coming year.

**B. OPEN TIME FOR PUBLIC EXPRESSION**

Administrator Benning spoke as a member of public, requesting that the Board instruct staff regarding the distribution of items or supporting documentation received after the monthly board mailing, stating that the current policy of subsequent distribution by email has drawn criticism from some Trustees. Trustee Gladstern stated that she appreciated receiving important items even if they were not available at the time the packets were distributed. Trustee Arrigoni stated that to be fair to staff, a cutoff should be established, unless there is an emergency. Trustee Gladstern reiterated that imposing a cutoff would

mean that items may have to wait for the next board meeting to be heard. Following discussion, the board instructed the Administrator to hold items received after noon on the Thursday preceding the board meeting until the following month.

**C. DISABILITIES**

All disability applications are heard in Closed Session unless applicant specifically waives confidentiality and requests that their application be heard in Open Session. Member records are confidential (Government Code Section 31532). (Action)

None.

**D. LEGAL MATTERS (CLOSED SESSION)**

None.

**E. OLD BUSINESS**

1. Application for Optional Death Allowance (Action)

Consider and take possible action regarding Joann Powers' application for an optional death allowance under Gov. Code section 31787 (deceased MCERA member Jeffrey Powers)

Counsel John Grey said he and Counsel Dunning reached agreement that the survivor should request the optional death benefit for the service-related injury.

Trustees Smith and Hufford stated that Counsel's summary was well-written and clarified the issue.

It was M/S Hufford/Gladstern to approve the Application for Optional Death Allowance as submitted.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Smith, Sweet, Webb

NOES: none

ABSTAIN: none

ABSENT: Wofford (non-voting), Haim, Richardson

2. Public Records Act Request for Certain Retiree Names and Allowance Amounts (Action)

Consider and take possible action regarding CFFR Public Records Act request

Counsel referred to the recent Public Records Act request for a list of retirees receiving \$100,000 or more from MCERA, stating that MCERA policy called for disclosure of that information. A recent court decision denied a request from a retired Contra Costa County Deputy Sheriff to keep retiree allowances confidential, and recommended that the board comply with the PRA request.

Dunning stated that Trustee Haim requested that she disclose on his behalf that his retirement allowance information would be provided, thus eliminating a potential conflict of interest on the basis of a financial interest in the decision of the board.

Counsel confirmed that neither addresses nor birth dates would be provided. She also noted that if MCERA were sued and lost, it would be required to pay attorney fees for both sides. Administrator Benner stated that retirees were already informed that this information had been requested. Counsel Dunning reported that in 2007 the Supreme Court issued two important decisions that the public's right to know outweighs the retirees' privacy rights.

It was M/S Gladstern/Richardson to approve the Public Records Act Request for Certain Retiree Names and Allowance Amounts.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson,  
Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

**F. NEW BUSINESS**

1. Approve Client Conferences and Other Educational Opportunities and Authorize Expenditures (Action)
  - a. Institutional Investor: Protecting Shareholder Value Oct. 22-23, 2009
  - b. 19th Annual Northern California Public Retirement Aug. 6, 2009 Seminar

It was M/S Hufford/Gladstern to approve attendance at the educational sessions and reimbursement of expenses.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson,  
Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

2. MCERA Participation Agreement for Funding Retiree Medical Trust 401(h) Account (Action)

Consider and take possible action regarding funding and operation by MCERA of a retiree medical trust fund organized under Section 401(h) of the Internal Revenue Code for the City of San Rafael

Trustee Hufford disclosed a personal financial interest in the matter to be discussed and excused himself from the meeting at 10:42 A.M.

Administrator Benner stated that a draft agreement formalizing the understanding between the City of San Rafael and MCERA regarding the management of the City's 401(h) account had been completed. She noted that the City received a copy of the draft several days earlier. A final draft will be submitted for adoption following discussion with the City and further legal review.

Trustee Richardson requested clarification regarding fees for service. Ms. Benner stated that Item 10 of the Agreement provides that all costs for administration, statements and preparation are borne by the sponsor.

Trustee Smith asked whether an Agency could withdraw funds. The Administrator stated that Item 16.c. of the Agreement provides for a 180-day termination notice by either party, with limitations. Counsel Dunning stated that participating agencies could cease making contributions as a means of “withdrawing” from the Trust.

Trustee Bolger asked about the Board’s fiduciary responsibilities in administering a 401(h) account, and whether additional protection from liability was necessary. Counsel Dunning stated that the same oversight fiduciary duties apply to the Board’s administration of the 401(h) plan under the 1937 Act. Dunning stated that MCERA is both a public agency and a trust.

Trustee Bolger requested that the Board consider eliminating Item 13 regarding the requirement that the sponsoring agency obtain a legal opinion regarding their ability to enter into a contract for administrative services, as she felt it was unnecessary. Counsel Dunning stated that she would determine whether the language was material to San Rafael or not.

Administrator Benner stated that the contract language was intended to assure that agencies had taken the steps necessary for them to legally enter into the contract with MCERA. Bolger suggested that the concern could be addressed by San Rafael making a representation as to its legal authority rather than force the City to incur additional expenses for legal services.

Trustee Richardson was excused from the meeting at 11:02 a.m. and returned at 11:07 a.m.

Trustee Arrigoni inquired regarding whether additional liability would inure to MCERA. Administrator Benner commented that the board should be concerned about potential conflicts of interest, and that since eligibility rules will be included in the contract, that it was important that the staff adhere to the City’s regulations in administering the plan.

Trustees Arrigoni and Bolger requested that the City of San Rafael provide the completed schedule as an appendix to the next contract draft.

Trustee Smith asked whether the City’s 401(h) was prefunded. The Administrator reported current assets under management were approximately \$12MM. She also clarified that liquidity of assets was not an issue at this time.

It was M/S Bolger/Gladstern to continue discussions and develop rules and procedures with the City of San Rafael regarding the MCERA Participation Agreement for Funding Retiree Medical Trust 401(h) Account.

AYES: Arrigoni, Bolger, Gladstern, Phillips, Smith, Sweet, Webb  
NOES: none  
ABSTAIN: Hufford  
ABSENT: Wofford (non-voting), Haim, Richardson

3. MCERA Contract with ASI for Payroll Processing Services (Action)

Consider and take possible action to approve contract between MCERA and ASI for production of retiree payroll and tax reporting services.

Administrator Benner recapped the contract terms, noting that ongoing services would be charged at \$0.17 per check plus postage, less a 2 cent/piece negotiated reduction for first class postage.

She noted that in 36 years of business ASI has never received a complaint for breach of confidentiality, a requirement stated in the contract. She also noted that procuring payroll services from a third party vendor provided additional safeguards to MCERA and its retirees in the form of disaster recovery and business continuity processes that were not available through the County.

Benner explained that the Auditor-Controller had communicated their desire to cease processing MCERA payroll effective 1/1/07 but had agreed to continue providing payroll services until CPAS was fully operational. Trustee Bolger commented favorably on ASI's reputation in the industry.

To a question regarding whether ASI could fulfill the retiree association mailing at no charge, the Administrator responded that the checks and check advice are a self-sealer, similar to that used by the County for its payroll process.

Trustee Gladstern said she supported this change in processing, noting that the Auditor currently has an entire room dedicated to payroll processing as well as a dedicated staff, which would not be feasible for an organization of MCERA's size. Benner reminded the Board of the City of New Orleans' experience following Hurricane Katrina, noting that disaster recovery is an essential function. Smith concurred that the County's current disaster plan was inadequate to meet MCERA's needs.

It was M/S Richardson/Hufford to approve the MCERA Contract with ASI for Payroll Processing Services as submitted.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson,  
Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

4. Request from Employee to Rescind Retirement and Return to Active Status (Action)  
Consider and take possible action on request from Carol Segler to rescind retirement effective July 11, 2009.

Administrator Benner noted that the process being followed is consistent with a prior applicant who wanted their retirement rescinded. She stated that Segler's pre-employment physical report contained no limitations regarding her ability to resume full time employment. Benner explained that Ms. Segler would continue in retirement until her reinstatement date. Upon her subsequent retirement, her original benefit would be increased by the cost of living and that the second period of service would be calculated separately from the first period.

It was M/S Hufford/Gladstern to approve the Request from Carol Segler to rescind her retirement and return to active status.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson,  
Smith, Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

**G. INVESTMENT INFORMATION**

Trustee Bolger reported that she attended the webcast for Abbott Capital and learned that both of the founders had left the firm,

**H. FINANCIAL INFORMATION**

1. Treasurer's Monthly Report

The Board accepted the Treasurer's monthly report on short Term Investments for the period ending May 31, 2009.

**I. OTHER INFORMATION**

1. Approved Trustee Training Calendar
2. Pyramis – US Equity Market Neutral Monthly Summary, May 2009
3. Barclay's – Alpha Advantage Strategy Commentary, May 2009
4. Dodge & Cox – Letter regarding reopening equity and balanced accounts, June 2009
5. Morgan Stanley – Announcement of Bruno Paulson to investment team, June 2009
6. RCM – Core Growth Commentary, May 2009
7. Pyramis – Market Neutral and SISC Pool Monthly Summary, May 2009
8. CalAPRS Update – Summer 2009

Trustee Gladstern reminded Trustees about the upcoming CalAPRS Trustee Roundtable in Oakland on October 16<sup>th</sup>. She also commented favorably on the CalAPRS training seminar she attended recently.

Trustee Smith indicated that he had spoken to Arnerich on sustainable investing. The Administrator recommended that information on sustainable investing be provided to

the Clerk for distribution to the Trustees at the next meeting. Chairperson Phillips noted that Dodge and Cox had re-opened its fund to new investors.

**J. CONSENT CALENDAR (Action)**

It was M/S Hufford/Gladstern to approve the Consent Calendar as submitted.

AYES: Arrigoni, Bolger, Gladstern, Hufford, Phillips, Richardson, Smith,  
Sweet, Webb  
NOES: none  
ABSTAIN: none  
ABSENT: Wofford (non-voting), Haim

There being no further business, the meeting was adjourned at 11:23 A.M.

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James Phillips, Chairperson

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Michael Smith, Secretary