

## MINUTES

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

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

June 13, 2012 - 9 A.M.

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**EVENT CALENDER**    9 A.M.    Regular Board Meeting

**CALL TO ORDER**    Chair Gladstern called the meeting to order at 9:01 A.M.

**ROLL CALL**    PRESENT:    Bolger, Brenk, Cooper, Gladstern, Haim, Richardson, Shaw  
(ex-officio alternate), Stevens, Webb (retiree alternate)

ABSENT:    Given, McFarland, Piombo (safety alternate)

### **MINUTES**

It was M/S Haim/Bolger to approve the March 21-22, 2012, Strategic Planning Workshop Minutes as submitted. The motion was approved by unanimous vote.

It was M/S Haim/Brenk to approve the May 2, 2012, Regular Board Meeting Minutes as submitted. The motion was approved by unanimous vote.

It was M/S Richardson/Bolger to approve the May 3, 2012, Investment Committee Meeting Minutes as submitted. The motion was approved by unanimous vote.

#### **A. OPEN TIME FOR PUBLIC EXPRESSION**

Note: The public may also address the Board regarding any agenda item when the Board considers the item.

No public comment.

#### **B. MATTERS OF GENERAL INTEREST**

##### **1. Supplemental Contribution Rate Tables (Action)**

Consider and take possible action to adopt contribution rate tables for County Miscellaneous Tier 4 and City of San Rafael Miscellaneous and Safety Tiers 2, effective July 1, 2012.

Retirement Administrator Jeff Wickman stated that Marin County Miscellaneous Tier 4 and the City of San Rafael Miscellaneous and Safety Tiers 2 are applicable to members

hired subsequent to the June 30, 2011 valuation, and therefore contribution rates for these groups were not included in that valuation. The action being brought to the Board is to adopt new rates for these tiers, and those rates would also go into effect July 1, 2012.

Graham Schmidt of EFI Actuaries reviewed new tier provisions, stating that the key difference between County of Marin Tier 4 and Tier 2 is the requirement for members to reach the age of 55 to receive the retirement benefit. Mr. Schmidt recommended that the blended Miscellaneous employer contribution rate adopted in the June 30, 2012 valuation be used for the new tier for the reasons that he explained in his written memo to the Board, including among others the demographics of the individuals currently in the new tiers. Mr. Schmidt also recommended that new employee contribution rates for the new tier be the same as have been adopted for County Miscellaneous Tier 2 also for the reasons set forth in his memo.

For the City of San Rafael Miscellaneous and Safety Tiers 2, Mr. Schmidt explained that both employee and employer contribution rates would be new, due to changes in the benefit provisions and demographics of the individuals in the new tiers. Employee contribution rates were lower than the other open tiers.

It was M/S Haim/Cooper to adopt contribution rate tables for Marin County Miscellaneous Tier 4 and City of San Rafael Miscellaneous and Safety Tiers 2, effective July 1, 2012, as presented. The motion was approved by unanimous vote.

2. Disability Retirement Presumptions of Service-Connection Under the 1937 Act  
Staff presentation on legal aspects of service presumption for disability retirement

Mr. Wickman stated that this item was being presented to the Board as a follow-up to the discussion that took place during the May disability hearing. He introduced Board counsel Ashley Dunning to conduct the presentation.

The question of whether a disability is service-related under the County Employees Retirement Law of 1937 (CERL), according to Counsel Dunning, depends, with respect to an application that is not entitled to a service-connection presumption, on whether employment “substantially caused” the incapacity. She stated that courts have defined substantial causation as meaning a “real and measurable” connection between the employment and the disability that is established by competent medical evidence. The CERL further provides a service-connection presumption for Safety and certain other employees in active law enforcement and active fire suppression when one of the following four conditions is present: heart trouble, cancer, blood-borne infectious disease or a particular staph infection, or exposure to biochemical substances. The presumption removes the burden from the Safety member to prove service connection, although the presumption may be rebutted by the retirement system or employer with competent medical evidence. There is a tax advantage for service-connected disability retirement that is awarded based on a rebuttable presumption.

Ms. Dunning reviewed related case law on, for example, who may be considered eligible for the presumptive condition and the circumstances that may or may not lead to rebuttal of the service presumption when a heart or cancer condition is present. Additional eligibility requirements for the service presumption generally include five years of service as well as other provisions specific to each medical condition. Ms. Dunning continued reviewing related case law and responded to questions from the trustees.

3. Popular Annual Financial Report (PAFR)  
Staff presentation of the draft June 30, 2011 PAFR

The Retirement Administrator presented the new Popular Annual Financial Report (PAFR), which was developed under the guidance of Senior Accountant Lisa Jackson and Communications Associate Syd Fowler. Ms. Fowler described the PAFR as an accessible snapshot of MCERA's financial status that is easy to read and economical to publish and mail. Valuable design feedback was provided by MCERA staff, the County's Public Information Team, and members of peer '37 Act systems, according to Mr. Wickman.

The PAFR represents the first step toward the goal of producing a Comprehensive Annual Financial Report (CAFR). Mr. Wickman mentioned that Ms. Jackson will be attending a training session on developing the CAFR later this summer.

C. **BOARD OF RETIREMENT MATTERS**

1. Standing Committee Reports

a. Finance Committee

1. Administrative Budget FY 2011/12 Quarterly Review

Consider and review budget for quarter ending March 31, 2012

Finance and Risk Management Committee Chair Bolger stated that the Committee found the administrative budget through March 31, 2012, to be reasonable and well presented. Committee members discussed travel expenses for trustee and staff education among other items. Mr. Wickman also reviewed non-administrative expenses such as payroll, legal and investment expenses.

2. Quarterly Checklist

The Committee found the quarterly checklist to be satisfactory. Ms. Bolger observed that the capital call report shows that funds are flowing to private equity portfolios.

3. System Risk Quarterly Review

Preliminary system risk analysis discussion

Committee Chair Bolger recommended that in the future system risk presentations take place at Investment Committee meetings. For the most recent report, SF Sentry focused on the Fund's cash position, which fixed income

managers may use to manage duration. The appropriate overall cash level for the Fund was considered. The VIX (volatility index) was discussed as a trend indicator and based on trustee interest will be considered in depth at the next Finance and Risk Management Committee meeting.

Mr. Wickman stated that the contract with SF Sentry will expire in October. A discussion of services provided by SF Sentry and whether to continue the current engagement will be placed on the next Finance and Risk Management Committee agenda.

4. Fiduciary Role of Investment Managers

Delegation of fiduciary duty to managers discussion

Ms. Bolger discussed the importance of establishing fiduciary acknowledgements by all investment managers. She reported that a staff and counsel review of all investment management agreements validated that some type of fiduciary acknowledgment was generally present with the exception of MCERA's two mutual fund managers, Artisan and Eaton Vance. Ms. Bolger also reported that the committee recommended developing a standard investment management agreement that incorporates the fiduciary role of investment managers. Trustee Richardson stated that the question of whether investments in mutual funds are appropriate should be addressed by the Investment Committee.

2. Administrator's Report (Oral)

a. Administrator's update

Retirement Administrator Jeff Wickman reported that three Board-member terms expire at the end of October. The specific trustees are the 9<sup>th</sup> member position appointed by the Board of Supervisors and the two retiree positions. Separate elections will be held on July 27 for the retiree and alternate retiree members. If at that time there are no candidates for the alternate retiree position, then another election for that position will follow the retiree election.

The Request for Proposal (RFP) for an actuarial auditor was issued last Friday and is available on MCERA's website. The goal is to present a recommendation to the Board at its July meeting.

As a result of the merger of the City of Sausalito Fire Department with Southern Marin Fire District staff have offered their assistance with getting the new fire fighters enrolled in MCERA.

Mr. Wickman attended the recent Marin Coalition meeting. The speakers were Marin County Administrator Matthew Hymel, Mayor Gary Phillips of the City of San Rafael, and Councilman Larry Chu of the City of Larkspur. Mr. Wickman responded to attendees' inquiries about the pension fund's investment performance and asset allocation.

The annual financial audit by Brown Armstrong is in process. Updates to the Notes to Financial Statements by staff will be presented to the Board at the August meeting.

b. Staffing update

The hiring of Member Services Technician Rachel Varao completes current fiscal year staffing realignments with no net increase in staff.

c. Facility Use Report

Marin County will use the facility for a public meeting sponsored by the Parks and Open Space Department and a one-day meeting of the Human Resources Department.

d. Future meetings

- July 3 Communications and Member Services Committee
- July 11 Regular Board
- July 12 Investment Committee

3. Trustee Comments

Trustee Haim commented favorably on the depth of knowledge of Board members and stated that after serving for several terms he will not seek reelection as retiree representative on the Retirement Board.

Trustee Cooper expressed appreciation to Ms. Dunning for her presentation on the service-connection presumption for disability retirement. Mr. Cooper emphasized the dangerous environment that Safety members are exposed to and encouraged the trustees to recognize the importance of the presumptions that are provided by law.

Chair Gladstern decided not attend the June 8 CalAPRS Trustee Round Table in deference to a strike by hotel employees.

Chair Gladstern directed deliberations to **Agenda Item F.1, Update on Proposed Pension-Related Legislation.**

**F. OLD BUSINESS**

1. Update on Proposed Pension-Related Legislation

Receive update on status of pension-related legislation

Mr. Wickman handed out an article on cash-balance pension plans that was published in the Public Retirement Journal. Cash balance plans may potentially be part of state-wide pension reform discussions. He introduced Counsel Dunning to present an update on recent pension reforms enacted in the cities of San Diego and San Jose.

Ms. Dunning first remarked that both the City of San Jose and San Diego are governed by city charters, unlike MCERA which is governed by state-wide law, the County Employees Retirement Law of 1937 (CERL), also known as the '37 Act. The voters in those cities sought to amend, by initiative, each of their city's charters to enact changes in their pension plans. Ms. Dunning noted that changes to pension provisions of systems governed by the '37 Act would require changes to the CERL, and potentially the California Constitution, through new legislation and/or ballot initiatives. While the cities' pension reforms therefore do not apply to MCERA, they are of interest in view of state-level pension reform initiatives that are currently under consideration. Also, litigation on reform provisions is already in process or anticipated, according to counsel, and the legal principles addressed in those cases are expected to be of interest to '37 Act systems across the state. Addressing a question about the City of San Rafael, which is a charter city, she explained that because the City joined MCERA, its pension plan also is governed not by city charter, but by the CERL.

Ms. Dunning reviewed pension system changes enacted by the City of San Jose, which require employees to pay higher contributions to remain in their current retirement plan. As an alternative, employees may choose a new retirement plan with new lower benefit accruals for future retirement service. Ms. Dunning stated that the essence of the vested rights issue that arises from these changes is whether the retirement plan in effect when impacted members were first employed, and during their employment, permitted the contemplated changes. Other San Jose pension changes include a hybrid pension plan for new employees and potential suspension of COLAs for retirees in whole or in part if there is an emergency declared by the City. Current litigation includes a federal court action filed by the City of San Jose to establish the legality and enforceability of the charter amendments. Members of the San Jose system have challenged the legality of the initiative in state court.

The trustees discussed the logistical problem of implementing pension changes that may later need to be unwound as the result of litigation. Trustee Haim asked about the jurisdiction of federal districts on state matters, and Ms. Dunning noted that vested rights cases involving public retirement systems are currently being litigated in, and decided by, federal and state courts in California. She noted, however, that jurisdictional challenges as to any particular case may potentially be raised in the litigation.

The initiative in the City of San Diego changed pension provisions by closing the defined benefit plan to new hires, with the exception of sworn police officers. In addition, the initiative proposed that current employees' pensionable pay be frozen for six years, but that provision stated it was subject to bargaining. Ms. Dunning noted that there are five pending lawsuits involving the Public Employees Relations Board (PERB), claiming the City violated bargaining rules in connection with the initiative. She also noted that the San Diego City Attorney has proposed a hiring freeze in order to establish a new defined contribution plan, which may or may not include Social Security. According to Ms. Dunning, the San Diego city charter had included a provision that active or retired members were to vote on proposed changes to their retirement benefits, as well as a newer provision that the electorate has the right to vote on

improvements to the members' retirement benefits. She noted that the membership vote provision also was sought to be eliminated from the Charter prospectively by the initiative.

Chair Gladstern directed deliberations to **Agenda Item D, Disability Retirement Applications.**

**D. DISABILITY RETIREMENT APPLICATIONS (TIME CERTAIN: 11 A.M.)**

All disability applications are considered in Closed Session unless applicant specifically waives confidentiality and requests that his or her application be considered in Open Session.  
**(Action)**

<u>Applications to be Heard</u>	<u>Service/Non-Service Connected</u>	<u>Date of Application</u>	<u>Employer</u>
1. Denis Walsh	Service	6/9/09	Southern Marin Fire Dept.
Consider and take possible action on applicant's request for an extension of time in which to conduct an administrative hearing.			
2. Carol McClendon	Service	6/23/09	Marin Co. Superior Court
Consider and take possible action on applicant's request for an extension of time in which to conduct an administrative hearing.			

It was M/S Richardson/Bolger to approve Denis Walsh's request for extension of time in which to conduct an administrative hearing. The motion was approved by unanimous vote.

It was M/S Bolger/Stevens to approve Carol McClendon's request for an extension of time in which to conduct an administrative hearing. The motion was approved by unanimous vote.

**E. LEGAL MATTERS**

None.

**G. NEW BUSINESS**

1. Future Meetings

Consider and discuss agenda items for future meetings

No discussion.

**H. INVESTMENT INFORMATION**

"X" indicates report distributed; \* indicates report distributed electronically

**PERIODIC REPORTS**

1. Equities and Fixed Income

	Abbott Capital	-Private Equities Fund
* X	Artisan Funds, Inc.	-International Equities Fund
* X	The Clifton Group	-Futures Overlay Program

- \* X Columbus Circle Investors -Small Cap Growth Portfolio
- \* X Dimensional Fund Advisors -Small Cap Value Fund
- \* X Dodge & Cox -Large Cap Value Portfolio
- \* X Eaton Vance -Emerging Markets
- \* X Morgan Stanley -International Equities Fund
- Pathway Capital -Private Equities Fund
- \* X Pyramis Global Advisors -International Small Cap Equity Fund
- \* X RCM -Large Cap Growth Equities Portfolio
- \* X State Street Global Advisors -S&P 500 Flagship Non-Lending
- \* X Wellington Management -Core Domestic Fixed Income Portfolio
- \* X Western Asset Management -Core Plus Domestic Fixed Income Portfolio
- 2. Real Estate
- \* X Woodmont Realty Advisors -Direct ownership – Monthly report
- \* X AEW Capital Management -Value Added Portfolio Quarter
- \* X RREEF -Value Added Portfolio Quarter
- Woodmont Realty Advisors -Direct Ownership Quarter
- 3. Other

**I. OTHER INFORMATION**

1. Trustee Training Calendar (**Action**)

It was M/S Brenk/Richardson to approve the July Public Pension Investment Management seminar sponsored by SACRS. The motion was approved by unanimous vote.

2. *Keeping in Touch* – June Issue, Retired Employees Association newsletter

**J. CONSENT CALENDAR (Action)**

Mr. Wickman stated that future Consent Calendars will provide additional detail in the return-of-contributions section by segregating adjustments for overpayments by members with 30 years of service who need no longer contribute.

It was M/S Haim/Stevens to approve the Consent Calendar as amended. The motion was approved by unanimous vote.

CONSENT CALENDAR for  
MCERA MEETING, WEDNESDAY, JUNE 13, 2012

CONSENT CALENDAR  
May 2012

RETURN OF CONTRIBUTIONS

Stewart Cowan	County of Marin	30,313.72
Brittany Craig	County of Marin	587.90
Jill Craig	County of Marin	1,332.20
Katherine Drake	County of Marin	13.01



Maya Gladstern	County of Marin	202.95
Ethel Havens	County of Marin	210.33
Karen Kilian	County of Marin	149.44
Marcie Lynch	County of Marin	60.24
Peter Maendle	County of Marin	258.43
Lee Magoski	County of Marin	693.41
Samantha Nilsen	County of Marin	4,129.39
Kristen Sweet	County of Marin	18,638.51
Jeffrey Buscher	City of San Rafael	430.13
Anil Comelo	City of San Rafael	1,347.40
James Lydon	City of San Rafael	189.24
Janice Mapes	Marin City Comm. Services District	6,486.00
	<b>TOTAL</b>	<b>\$65,042.30</b>

**BUYBACK**

Dana Amanino	County of Marin
Caran Cuneo	County of Marin
Suzanne Griffiths	County of Marin
Janeen Thomas	County of Marin
Ann Marie Wierzbicki	County of Marin
Janis Zaslav	

**NEW RETIREES**

James Beane	HHS	County of Marin
Pamela Carter	Sheriffs	County of Marin
Stewart Cowan	Sheriffs	County of Marin
Randall Knox	Parks & Open Space	County of Marin
Simone Rivers	Probation	County of Marin
Christina Sciocchetti	Treasurer-Tax Collector	County of Marin
David Cron	City of San Rafael	
Vernon Doughty	City of San Rafael	
Timothy Horvath	City of San Rafael	
Paul Levaque	City of San Rafael	
Lisa McElroy	City of San Rafael	
Mark Sullivan	City of San Rafael	

**RESCINDED RETIREMENTS**

**DECEASED RETIREES**

Alfred Stokes	DPW	County of Marin
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Betty Ott	H & HS	County of Marin
Nancy Price	Probation	County of Marin
Patricia Petty	Beneficiary	County of Marin
Evelyn Wright	Beneficiary	County of Marin
Mary Mick		City of San Rafael
Laura Borba	Beneficiary	City of San Rafael

CONFERENCES/SEMINARS

SACRS Spring Conference  
 Trustees Bolger, Brenk, Gladstern, Haim, McFarland, Piombo, Richardson, Webb  
 Retirement Administrator Wickman and Counsel Dunning

There being no further business, Chair Gladstern adjourned the meeting at 11:02 A.M.

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Maya Gladstern, Chair

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Gregory Brenk, Secretary