

MINUTES

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

**One McInnis Parkway, 1st Floor
Retirement Board Chambers
San Rafael, CA**

February 11, 2009, 8:00 A.M.

CALL TO ORDER Chairperson Phillips called the meeting to order at 8:11 A.M.

ROLL CALL Present: Arrigoni, Bolger, Given (non-voting), Gladstern, Haim, Hufford, Phillips, Richardson, Smith, Sweet, Webb (non-voting), Wofford (non-voting)
Absent: none

MINUTES January 14, 2009 Regular Meeting

It was M/S Hufford/Sweet to approve the January 14, 2009 minutes of the regular meeting as submitted.

AYES: Arrigoni, Bolger, Gladstern, Haim, Phillips, Richardson, Smith, Sweet
NOES: none
ABSTAIN: Hufford
ABSENT: none

A. BOARD OF RETIREMENT MATTERS

1. Administrator's Report (Oral)

Ms. Benner updated the board regarding progress being made in updating BenCal, the calculation backlog, and reported that 6/30/08 benefits statements should be mailed in the next 60-90 days.

Trustee Smith complemented Karin Carmin and Helen Moody on the Pre-retirement Group Counseling Session held recently, stating that they did an outstanding job in presenting the material. Ms. Benner noted that complements were also received from the Southern Marin Fire Chief as well as representatives from Mosquito Abatement, the County of Marin and the Marin County Courts.

The Administrator stated that the new presentation was a significant step forward over prior presentations and that feedback from attendees was universally positive. She stated that the pre-retirement presentation was designed to serve as a reference document for attendees, and that it would continue to be expanded and updated based

upon attendee feedback. She also noted that this was the first retirement presentation of any type to be customized for each member agency.

Five presentations are planned during February and March to meet the needs of members planning to retire during the Feb-March period, but attendees looking forward to a later retirement are also welcome to attend. Announcements regarding future dates have been placed in the County's FYI newsletter and distributed to every member agency general manager and HR director to encourage attendance by members from all agencies. Development of a new hire presentation is planned for later in the year.

Trustee Smith suggested that staff consider developing a separate presentation focused exclusively on retiree healthcare options and invite their Human Resources directors to participate. Ms. Benner noted that agencies that participate in non-County health plans counsel their members themselves.

Trustees Smith and Webb thanked Ms. Benner for attending the Marin County Retired Employees Association (MCREA) luncheon, stating that attendance at the lunch was larger than usual, likely as a result of her being the guest speaker.

B. 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)**

	<u>Applications to be Heard</u>	Service/Non-Service <u>Connected</u>	Date of <u>Application</u>	<u>Employer</u>	
1.	William McMurray	Service	10/10/07	Marin Sheriff	County

Initial consideration of an application for disability retirement filed by a miscellaneous member.

The Board recessed and reconvened in closed session at 8:26 A.M. The meeting was reconvened in open session at 9:50 A.M.

It was M/S Hufford/Arrigoni to deny William McMurray's application for service connected disability retirement and to refer his application for service connected disability retirement to a hearing officer.

AYES: Arrigoni, Bolger, Gladstern, Haim, Hufford, Phillips,
Richardson, Sweet
NOES: Smith
ABSTAIN: none
ABSENT: none

Ms. Dunning advised that the applicant has 60 days to request an administrative hearing, from receipt of the notice of denial.

C. LEGAL MATTERS

1. Conference with Legal Counsel pursuant to Government Code §54956.9(a) – existing litigation. One case. (CLOSED SESSION)
 - a. *MCERA v. Wooten-Brown, et al.*; Marin County Superior Court Case No. CV 085325

The board recessed to closed session at 9:51 A.M. and reconvened in open session at 10:01 A.M.

The Chair announced that there was no reportable action.

2. Conference with Legal Counsel regarding possible administrative limitations Board may impose on its compensation earnable determination to avoid artificial inflation of retirement allowance amounts. (Action)

Attorney Dunning recommended that any Board members who currently have the right, under existing memoranda of understanding or other employment contracts, to receive cash in lieu of vacation or sick leave during employment recuse themselves from the discussion of this agenda item because of the risk that they may be deemed to have a conflict of interest when deciding this issue. Counsel also recommended that the Retirement Administrator recuse herself with respect to the discussion of whether the bonus she received from the Board would be included in her retirement allowance calculation.

The Retirement Administrator reported to the Board that because she had a personal financial interest in the decision that the Board would make regarding the pension ability of her bonus, she would recuse herself from any aspect of the decision-making process on that topic and she left the room prior to the discussion of her bonus at 10:10 A.M.

Trustee Jim Hufford also reported to the Board that because he had a personal financial interest in the decision that the Board would make regarding the pension ability of in-service cash outs of accrued leave, he would recuse himself from any aspect of the decision-making process on that topic and he left the room at 10:12 A.M.

Attorney Dunning stated that the Administrator requested that she advise the retirement board regarding inclusion of in-service cash outs of accrued vacation/sick leave and the executed bonus received by the Retirement Administrator in retirement allowance calculations.

Regarding cash outs of leave, Counsel advised that the Board had some discretion to limit the artificial inflation of retirement allowances by the inclusion of in-service cash outs of accrued vacation and sick leave to the extent that those cash outs could not have been earned and cashed out within a twelve month period under the applicable employment contract. She stated that she has been advised by staff that most MCERA members are not currently permitted under their employment agreements to receive cash in lieu of vacation or sick leave during employment, as

distinguished from a termination payment. Counsel advised that, if the Board wishes to consider limiting its determination of compensation earnable, a draft resolution could be prepared for the Board's consideration that provided limits.

Counsel further advised that California Government Code §31461.5 excludes executive bonuses such as the one awarded to the Retirement Administrator from compensation earnable. Staff noted that a survey conducted by another 1937 Act system found that approximately 50% of the systems included bonuses as part of compensation earnable for executive personnel, and 50% excluded them.

Discussion ensued regarding the Retirement Board's affirmative fiduciary authority to interpret the laws applicable to MCERA regarding the calculation of retirement allowances, and in particular to determine compensation earnable in a manner that was consistent with legislative intent, in the overall best interest of all of MCERA's members and beneficiaries, and applied uniformly to similarly situated members.

It was M/S Bolger/Smith to exclude the Retirement Administrator's bonus from compensation earnable as provided by Government Code §31461.5 such that it will not be included for purposes of calculating the Retirement Administrator's retirement allowance.

AYES: Arrigoni, Bolger, Gladstern, Haim, Phillips, Richardson,
Smith, Sweet
NOES: none
ABSTAIN: none
ABSENT: Hufford

Ms. Benner rejoined the meeting in session at 10:25 A.M.

Discussion continued regarding developing a policy with respect to both forms of compensation under discussion that could be applied uniformly to all similarly situated members of MCERA. Counsel recommended that this issue be agendized again, such that discussion could continue on the topics with the benefit of draft resolutions to consider.

The Board directed Counsel to prepare two draft resolutions to be presented as informational items at the 3/11/09 Board Meeting. A vote on the resolutions is planned for the April regular meeting.

The first resolution should address the board's discretion to impose a cap on the amount of in-service cash out that will be included in retirement allowance calculations. The second resolution will address California Government Code §31461.5, regarding the exclusion of certain executive bonuses from compensation earnable.

Ms. Benner will notify all plan sponsors that the exclusion of vacation cash outs from compensation earnable will be taken up preliminarily by the Board at the 3/11/09 Board Meeting.

Trustee Hufford rejoined the meeting in session at 10:40 A.M.

D. OLD BUSINESS

1. Annual Valuation Report – 6/30/07
 - a. Discussion of outstanding policy issues

Graham Schmidt, of EFI Actuaries presented the first draft of the full 6/30/07 valuation report. Mr. Schmidt reconfirmed that the contribution rates provided in the 2007 projection valuation represented an appropriate and reasonable evaluation of the actuarial cost of the Plan, and proposed no changes in contribution rates at this time. He also stated that due to continuing issues with the County's SAP system, the 6/30/08 valuation report would also be delayed.

Although there were minor increases noted in response to changes in the demographic information, contribution rates moved slightly lower as a result of increased assets under management. Another factor contributing to lower contribution rates was the addition of new hires who enter the system without any associated unfunded liabilities.

Although actuarial costs changed significantly between tiers within plans due to small member populations, overall shifts at the employer level were negligible.

All sources of actuarial gains and losses combined to decrease employer contribution for County of Marin by 2.67%, Novato Fire by 3.35% and San Rafael by 2.64%. Schmidt noted that available assets helped to reduce contribution rates by 2% because of the 16% market return from the FY06-07 period. The actuarial assumptions and benefit provisions of all three plans remained unchanged from the prior valuation.

Novato Fire had no new plan entrants, while the County experienced an increase of 2.5%. San Rafael reported the addition of 60 new entrants to the system during the period under study. The change in actuary had little impact on each agency's projected costs.

The County of Marin's normal cost was about 11% of pay, with unfunded liability contributing an additional 6% to the contribution rate, for a total of 17% of pay.

In response to questions regarding best practices in setting amortization periods, Schmidt recommended that the board consider resetting those periods which have declined below 10 years in order to stabilize contribution rates.

Novato's normal cost is about 25% of pay, with a total employer cost of 40%. San Rafael's amortization is significantly larger than the normal cost primarily resulting from retroactive benefit enhancements enacted in prior years.

Investment returns of approximately 12.1%, well in excess of the 8.0% valuation investment return assumption, produced an actuarial gain for year.

Discussion followed regarding the need to review the current method of reserve accounting, including but not limited to the creation of a policy regarding establishment of a contingency reserve.

Counsel advised that a proposed contingency reserve policy would require deliberation, legal counsel and actuarial advice. It was Attorney Dunning's recommendation to agendize discussion of a contingency reserve policy for a future meeting.

Trustee Smith and the Chair commented favorably on EFI's draft of the Annual Valuation Report noting that the presentation was comprehensive and easy to understand.

Mr. Schmidt reported that the Administrator had requested that EFI review and make recommendations on revising the current method of allocating reserves between the County and special districts. Amongst the methods currently under study are tracking of cash flows into and out of each agency's account and risk pooling to reduce volatilities for special districts within Marin County.

Trustee Haim commended both Mr. Schmidt and the Administrator for their efforts to clearly communicate the results of the projection valuation to representatives of the member agencies, noting that there appeared to be a high level of employer satisfaction with their presentation.

2. Investment Policy Statement (Action)
 - a. Consider and take possible action regarding adoption of revisions to Investment Policy Statement

It was M/S Richardson/Hufford to approve the revised Investment Policy Statement as submitted.

AYES: Arrigoni, Bolger, Gladstern, Haim, Hufford, Phillips,
Richardson, Smith, Sweet
NOES: none
ABSTAIN: none
ABSENT: none

Further consideration of various provisions contained in the current draft will be taken up at the Strategic Workshop to be held in April.

E. NEW BUSINESS

1. Approve Client Conferences and Other Educational Opportunities and Authorize Expenditures (Action)

- a. II – Risk and Recovery: Critical Perspectives on the Dynamic Investment Landscape Feb. 25-27, 2009
- b. CAPP – 2009 Programs for the Public Sector, Part I Only March 28-29, 2009
- c. CAPP –Benefits Conference for Public Employees March 30-31, 2009
- d. CAPP – 2009 Programs for the Public Sector, Part I and II June 9 -12, 2009
- e. CAPP – 2009 Programs for the Public Sector, Part II Only Nov. 7-8, 2009
- f. * NCPERS 2009 Annual Conference and Exhibition May 1-7, 2009
- g. AEW Annual Fund Meetings April 6-7, 2009

* *additional information and agenda will follow at a later date*
X approve for attendance by hourly staff or counsel
X approve for attendance by executive staff*

It was M/S Haim/Gladstern to approve the list of client conferences and other educational opportunities and authorize expenditures for attendance.

AYES: Arrigoni, Bolger, Gladstern, Haim, Hufford, Phillips, Richardson, Smith, Sweet
NOES: none
ABSTAIN: none
ABSENT: none

2. MCERA Portfolio Analysis

- a. Financial Report for period ending December 31, 2008.

The Board accepted the preliminary performance figures from Callan Associates' quarterly portfolio performance report for period ending December 31, 2008.

F. INVESTMENT INFORMATION

Nothing to report.

G. FINANCIAL INFORMATION

1. Treasurer's Monthly Report

The Board accepted the Treasurer's Monthly Report for the period ending December 31, 2008.

H. OTHER INFORMATION

1. Approved Trustee Training Calendar
2. Advance notice of upcoming educational and training opportunities
[None]
3. Agenda – Manatt Focus Forum “Navigating through the Storm,” February 26-27, 2009 (previously approved)
4. Agenda – CalAPRS General Assembly, March 1-3, 2009 (previously approved)
5. Agenda – RREEF “Educational Client Seminar,” February 24-25, 2009 (previously approved)
6. RREEF – Market Watch, January 20, 2009
7. Artisan International Fund – Portfolio Manager Perspective – 4th Quarter
8. Mazama – Letter from Donald J. Klotter, Senior VP of Marketing and Client Services
9. Mazama – Employee Ownership and Board Update
10. ING Clarion – Market Update
11. MCREA *Keeping in Touch* Newsletter – February 2009
12. Agenda – Hedge Fund Institutional Forum Public Funds Roundtable
13. Agenda – Institutional Investor “The Search for Alpha Forum,” March 16-17, 2009 (previously approved)

I. CONSENT CALENDAR (Action)

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

AYES: Arrigoni, Bolger, Gladstern, Haim, Hufford, Phillips,
Richardson, Smith, Sweet
NOES: none
ABSTAIN: none
ABSENT: none

J. OPEN TIME FOR PUBLIC EXPRESSION

There being no further business, the meeting was adjourned at 11:41 A.M.

James Phillips, Chairperson

Michael Smith, Secretary