

MINUTES

BOARD GOVERNANCE COMMITTEE MEETING MARIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

Retirement Board Conference Room
One McInnis Parkway, 1st Floor
San Rafael, CA

August 7, 2009 11:00 A.M.

EVENT CALENDAR 11:00 A.M. Governance Committee meeting

CALL TO ORDER Chair Gladstern called the meeting to order at 11:18 A.M.

ROLL CALL Present: Gladstern, Haim, Webb,
Absent: Bolger

A. **OLD BUSINESS**
None

B. **NEW BUSINESS**

1. **Committee Organization and Procedures**
Discuss Charter, meeting schedule, procedures, etc.

Administrator Benner proposed to include upcoming board and committee meetings in the newsletter.

2. **Investment Code of Conduct (Action)**
Discuss possible amendments to the Investment Code of Conduct

The Chairperson and Administrator Benner explained that legislation is currently moving through the Legislature that will affect the definition of "Placement Agent," and recommended that the Committee defer development of the policy amendment until the Legislature has completed its work. The Committee agreed.

3. **Development of Additional Board Policies**
Consider possible development of additional Board policies:

- **Whistleblower policy**

Administrator Benner indicated that Counsel did not have specific suggestions with regard to whether development of separate Whistleblower policy was necessary, as the County's policy was currently in place. Chair Gladstern noted that the MOUs take precedence over policy, and suggested that an understanding be developed with the County regarding whether an MCERA policy or the County Whistleblower policy would prevail if an MCERA policy were developed.

Trustee Webb stated that he had had experience in this area, in prior years the County did not recognize MCERA as a separate organization, and that a memorandum of

understanding might be helpful. Benner said that since staff was currently employed by the County the next step is to converse with County Counsel regarding next steps. Webb and Gladstern concurred.

- Retention policy for audio recording of meetings and computer system backups
Administrator Benner recommended retention of audio recordings until minutes were approved by the Board, which was longer than the currently mandated 30 days. She explained that the minutes are put before the board for approval, and once approved, they are considered the legal record of the meeting. Trustee Webb questioned whether storage capacity was an issue, stating a preference for retaining the audio record for a longer period of time. The Administrator stated that she had conferred with counsel, who advised that retention of the audio recordings could prove problematic since the written minutes are the official record. The Committee concurred, and will recommend that the board amend the record retention policy to state that audio recordings be destroyed once meeting minutes are approved.
- Building usage and security
The Administrator reported that potential users of the facility fell into two groups: commercial groups and members, active or retired. She noted that tax counsel advised that since the building was an asset of the Plan, market rents should be charged for use of the facilities, noting that a fee schedule had been approved by the board for that purpose. Trustee Webb stated that MCREA, the retirees' association, felt they should be allowed the use the facilities without charge. Trustee Gladstern cautioned that there was no material distinction between retired members and active members and that treating the groups differently could lead to problems.

Trustee Haim said that the courts have ruled that MCERA's responsibility is like that of a financial institution that provide an annuity, and that services provided by those organizations do not include use of facilities. He also stated that to the extent possible he supported accommodation of member requests. The Chair cautioned that there are too many people who could fall within that definition.

Administrator Benner said that MCERA is a tax-qualified pension trust and since the facility is an asset of the trust, Tax Counsel advised that MCERA must charge the County market rates to use the facility. She echoed Trustee Haim's comments that MCERA is like an insurance company that issues annuities, stating that annuitants have neither rights nor expectations that the insurance company's property is available for their use. Trustee Webb agreed with Benner, stating that the current issue is primarily an emotional one for the retirees. Gladstern countered that if the building is made available to one group of members, it could be argued that active member social groups such as Weight Watchers or other arts and crafts groups could demand the right to use the building for their gatherings free of charge.

Benner noted again that Tax Counsel stated that market rates must be charged for building use; however, she agreed to pursue whether a discount could be provided to the MCREA. Haim concurred. Gladstern questioned whether a sufficiently narrow definition could be developed to limit exposure to claims from other groups. Haim expressed concern over potentially jeopardizing MCERA's tax status. Following further discussion, Trustees Haim and Webb agreed that MCREA's request to use the facility

should be denied and that the Board should convey to the retiree association that this issue has been closely examined and found to be in conflict with IRS regulations. The Committee agreed to continue the discussion at future meetings.

- Development of investment committee charter
None
- Other
None

4. Review of FY08-09 Grand Jury report Findings

Administrator Benner distributed a draft of proposed responses to Grand Jury Findings and Recommendations. The Committee members reviewed and commented on these revisions as follows:

- Findings No. 2, 3, 10, 11: No changes were suggested.
- Finding No. 8: Chairperson Gladstern recommended including a comment that the recruitment for the Assistant Retirement Administrator will commence shortly.
- Recommendation No. 1: Administrator Benner stated that while there is no single document which is called a “Strategic Plan” that the 2006 long term staffing plan included a number of initiatives that provided strategic direction for the organization. She suggested that the objectives outlined in Finding No. 2 addressed this recommendation.

Chairperson Gladstern commented, and Benner concurred, that strategic plans tend to be static rather than dynamic, and are often outdated by the time they are issued. Benner suggested articulating the strategic direction by including a statement regarding the dynamic nature of the organization. Trustee Webb echoed Gladstern’s sentiments, adding that if there is to be a document it should be identified as a dynamic document which can be modified as events warrant. Administrator Benner requested clarification on the level of detail to be included in the document. The Chair stated that it need not be specific but should address mission vision and values. The Administrator summarized by saying the document should note the rapid evolution of the organization.

As a working title Webb suggested using the term “strategic initiative” rather than “strategic plan”. Gladstern suggested that the document should include objectives which may change every year, supporting the dynamic nature of the document. Discussion will continue at a future meeting.

- Recommendation No. 4: Chairperson Gladstern asked when the team-building activities began and Benner replied November 2008. Gladstern suggested that the response include reference to its having begun shortly after the organization was physically reunited into one building, and prior to release of the Grand Jury’s report. Trustee Webb concurred. Benner said she believes the Grand Jury report was intended to encourage the organization to continue evaluating these issues. Benner suggested

amending wording as follows: “.....through the calendar year, at which time there will be a review and consideration of next steps.” Trustee Webb agreed with that wording.

- Recommendation No. 6: The Committee members agreed to the statement as written.

C. **OPEN TIME FOR PUBLIC EXPRESSION**

None

There being no further business the meeting was adjourned at 11:28 A.M.

Maya Gladstern, Chair

Attest: Charnel Benner, Administrator