

# CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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December 8, 2010

The Board of Retirement met in regular session at 9:00 a.m. on Wednesday, December 8, 2010 in the Conference Room of the Contra Costa County Employees' Retirement Association, 1355 Willow Way, Suite 221, Concord, CA.

Present: Terry Buck, Richard Cabral, Dave Gaynor, Brian Hast, Jerry Holcombe, Sharon Naramore, William J. Pollacek, Jerry Telles and Maria Theresa Viramontes.

Staff: Marilyn Leedom, Retirement Chief Executive Officer; Silvina Leroux, Retirement Deputy Chief Executive Officer; Cary Hally, Retirement Chief Investment Officer; Karen Levy, General Counsel; Rick Koehler, Retirement Accounting Manager; Kathy Somsen, Retirement Benefits Manager.

Outside Professional Support:	Representing:
Harvey Leiderman	Reed Smith LLP
John Monroe	The Segal Company
Rebecca Byrnes	County Counsel
Katrina M. Clingerman	Ice Miller LLP
Mary Beth Braitman	Ice Miller LLP

## Other Attendees:

Luz Casas	Contra Costa County Employees' Retirement Association (CCCERA) Staff
Christina Dunn	CCCERA Staff
Karen Davis	CCCERA Staff
Tracy Kroll	CCCERA Staff
Joelle Luhn	CCCERA Staff
Justine Oyler	CCCERA Staff
Randy Musgraves	Contra Costa County Sanitation District (CCCSD)
Laura Strobel	County Administrator's Office (CAO)
Lisa Driscoll	CAO
Russell Watts	Treasury Tax Collector's Office
Rollie Katz	Local One
Colette Curtis-Brown	CCCSD
Jackie Lorrekovich	Contra Costa County Fire Protection District
John Phillips	Self
Debbie Ratcliff	CCCSD
Robert Leete	San Ramon Valley Fire Protection District
Sue Casey	Moraga-Orinda Fire Protection District
Wendy Lack	Resident

## 1. Pledge of Allegiance

Pollacek led all in the *Pledge of Allegiance*.

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### **2. Public Comment**

Rollie Katz thanked the Board and staff for their support in the past seven months with his mother's and father's illnesses and deaths.

### **3. Routine Items**

It was **M/S/C** to approve the routine items of the December 8, 2010 meeting. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

### **4. IRS Letter of Determination process and recommended IRS Tax Compliance Policies - Mary Beth Braitman, Katrina M. Clingerman**

Clingerman reported on the importance of having a qualified plan status. Braitman noted employee contributions are not taxable to members when they are made, only when distributed from a qualified retirement plan. She also reviewed the importance of governmental plan status, noting the different filing cycles and associated time periods.

Braitman reviewed the IRS determination letter and why it is important to have one, noting it is the IRS's opinion that a retirement plan document complies with the Internal Revenue Code, Treasury Regulations and IRS guidance. A favorable determination letter protects the members, retirees and beneficiaries against any negative impact from changes in IRS administrative positions. She reviewed the IRS's Governmental Plans initiative which is focused on governmental pension plans.

Braitman reviewed the basic rules for a qualified plan. She recommended additional technical language to confirm compliance with vesting requirements. She also recommended adding language to confirm compliance with the requirements of the Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA) and the Heroes Earnings Assistance and Relief Act of 2008 (HEART).

Clingerman reviewed required benefit payments, rollovers, limits on compensation, benefits and contributions. She then recommended technical language to confirm compliance with these requirements. She noted the Active Death Benefit is a long standing practice at CCCERA. For CCCERA to operate in compliance with its plan document she recommended adopting the Active Death Disability Retirement Application Policy to document and confirm this interpretation.

Clingerman and Braitman complimented and thanked Leedom and Levy for all their hard work in researching and preparing the plan document and operational compliance relating to the IRS Determination Letter Application process.

### **5. IRS Tax Compliance Policies as recommended by Ice Miller**

It was **M/S/C** to accept the IRS Tax compliance policies as recommended by Ice Miller. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

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### **6. Active Death Disability Retirement Policy**

It was **M/S** to adopt the Active Death Disability Retirement Policy.

A substitute motion was made to rescind the active death disability retirement practice. After discussion on obtaining additional review on the Active Death Disability Retirement Policy, the question was called.

It was **M/S/C** to call for the question. (Yes: Buck, Cabral, Hast, Telles, Viramontes; No: Gaynor, Holcombe, and Pollacek).

On the substitution motion, it was **M/S** to rescind the active death disability retirement practice. Motion failed. (Yes: Holcombe; No: Cabral, Viramontes, Buck, Telles; Abs: Gaynor, Hast, Pollacek).

It was **M/S** to adopt the Active Death Disability Retirement Policy. Motion failed (Yes: Cabral, Buck, Viramonte, Telles; No: Holcombe; Abs: Hast, Pollacek, Gaynor)

The Active Death Disability Retirement Policy was tabled until the next meeting.

In public comment, Rollie Katz stated that he attends several meetings governed by the Brown Act and that counsel always gives their opinions during the meetings. He added that closed session doesn't seem to be the proper place to discuss counsel opinion.

### **7. Letter of Determination with the IRS**

After a short discussion on tabling this item until the next meeting, it was **M/S/C** to approve completing and filing the application for a Letter of Determination with the IRS excluding the section pertaining to the active death process. (Yes: Buck, Gaynor, Hast, Holcombe, Pollacek, Telles, and Viramontes; No: Cabral)

### **8. Presentation on phase-in of contribution rates - John Monroe, The Segal Company**

Monroe reported on his November 30, 2010 letter regarding the three-year phase-in of employer contribution rates due to depooling.

If the phase-in is implemented, there would be an impact on financial reporting by employers and CCCERA. At the close of each calendar year, CCCERA's accounting expense or Annual Required Contribution (ARC) under Governmental Accounting Standards (GAS) 25 is reported in the plan's financial statements. The actual contributions shown for future years will end up being less than the ARC shown in the actuarial valuation if a phase-in of contributions takes place. This will lead to a "percentage contributed" of less than 100% for each of those phased-in years, indicating that the plan's ARC accounting expense (based on GAS 25) is not being fully funded each year.

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Employers that phase-in the rates will report a difference between the ARC accounting expense and actual contributions as a Net Pension Obligation (NPO) on their financial statements.

The implementation of a phase-in would have a future impact on employer contribution rates. Under the phase-in, the plan would not be receiving the full Unfunded Actuarial Accrued Liability (UAAL) amortization payments. Each of these contribution losses would be amortized over a period of 18 years starting with the actuarial valuation that follows the contribution loss.

Leiderman stated this is a significant change. Discussion followed on time periods for a phase-in of contribution rate increases (3 years or 18 years). In the past, policies have been applied to all employers in the association, not just certain employers.

In public comment, Randy Musgraves, Central Contra Costa Sanitary District (CCCSD), stated he is opposed to the phase-in although he understands the impact to the other employer members. Musgraves noted they are concerned with the unfunded liability and wants to protect their ratings with the rating agencies. He prefers the phase-in to be by employer choice.

Lisa Driscoll, County Administrator's Office (CAO), stated it is very important to the County for bargaining and bond ratings that the Board depools the employers. The County will choose to pay any increase to employer contributions due to depooling, versus electing to phase-in the increase.

Chief Darrell Louder, Contra Costa County Fire Protection District, thanked the Board for considering the phase-in rates. He reiterated the Fire District had no voice over the vote to depool. An increase of 9% is very significant and can mean direct service cuts to the community. He expressed his desire for an 18 year instead of a 3 year amortization for phase-in implementation.

### 9. Phase-in of contribution rates due to the effects of depooling

It was **M/S** to accept the phase-in rates on an individual employer basis based on The Segal Company's report with an 18-year amortization period. Motion failed. (Yes: Buck, Cabral, Gaynor, Hast; No: Holcombe, Pollacek, Telles, Viramontes).

After discussion, it was **M/S/C** to accept the depooling report and provide the option to employers to use the phase-in rates with a 3-year amortization period. (Yes: Buck, Cabral, Gaynor, Hast, Telles, Viramontes; No: Holcombe, Pollacek).

In public comment, Lisa Driscoll, (CAO), stated that the County begins their budget process in January. She encouraged the Board to adopt contribution rates as soon as possible.

Jackie Lorrekovich, Contra Costa County Fire Protection District, agreed with offering the 3-year phase-in to all employers.

Leiderman noted that Mr. Monroe of Segal confirmed that with the phase-in process all normal contributions will continue to be paid.

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**CLOSED SESSION**

The Board moved into closed session pursuant to Govt. Code Section 54957 to consider the Medical Advisor and/or staff's recommendations regarding disability retirement applications and under Govt. Code Section 54957.

The Board moved into Open Session.

**10. Disability Retirements**

It was **M/S/C** to accept the Medical Advisor's recommendation and grant the following disability benefits:

- (a) Patricia Edwards - Non-service Connected (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)
- (b) Matthew Wasteney - Non-service Connected (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

**11. Disability Applications for Maria Gutridge, Marion Anderson, and Kris Gordon**

It was **M/S/C** to accept the recommendation of County Counsel to grant service connected disability retirement to Maria Gutridge. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

It was **M/S/C** to accept the recommendation of County Counsel to deny service connected disability retirement to Marion Anderson. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, and Viramontes; Abs: Telles)

It was **M/S/C** to accept the recommendation of County Counsel to deny service connected disability retirement to Kris Gordon. (Yes: Buck, Gaynor, Hast, Holcombe, Pollacek, Telles, and Viramontes; Abs: Cabral)

**12. Placement Agent Disclosure Policy**

It was **M/S/C** to adopt the amended Placement Agent Disclosure Policy. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

**13. Conflict of Interest Code**

It was **M/S/C** to adopt the amended Conflict of Interest Code including a change in Exhibit A updating the Retirement Administration Manager title to Retirement Administrative/HR Coordinator. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

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**14. Market Stabilization Account**

Koehler reviewed the Market Stabilization Account's deferred return as of June 30, 2010. After Board questions on several line items, it was **M/S/C** to accept the Market Stabilization Account report. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

**15. Board meeting calendar for 2011**

It was **M/S/C** to adopt the 2011 CCCERA meeting calendar noting the possibility of future changes. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

**16. Conference Seminar Attendance**

- (a) It was **M/S/C** to authorize the attendance of one Board and one Staff member at the Public Funds Roundtable, Institutional Investor, April 6-8, 2011, San Diego, CA. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)
- (b) It was **M/S/C** to authorize the attendance of two Board and one Staff member at the 2011 Legislative Conference, NCPERS, January 30-February 1, 2011, Washington, D.C. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)
- (c) It was **M/S/C** to authorize the attendance of Leedom and one Staff member at the Visions, Insights & Perspectives, Institutional Real Estate Inc., February 1-3, 2011, Dana Point, CA. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)
- (d) It was **M/S/C** to authorize the attendance of all Board and appropriate Staff members at the General Assembly, CALAPRS, March 5-8, 2011, Monterey, CA. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

**17. Miscellaneous**

**(a) Staff Report**

Leedom reported staff is working on the review of outside professional consultants. The Board surveys will be issued by January 2011.

The building management RFP will be issued in January 2011.

The Segal Company is working with Bartel and Associates to supply requested actuarial information regarding depooling.

She wished everyone a happy holiday season and thanked staff for all their work in the past year.

Levy reiterated her thanks for staff's help with the IRS project.

She reported OCERS filed for an IRS Determination Letter and the IRS has assigned a team to review their application.

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Hally stated he is closer to finalizing the contracts with Tradewinds and First Eagle.

(b) Outside Professionals' Report - None

(c) Trustees' Comments -

William Pollacek was commended for his 12 years of service to the Retirement Board.

Pollacek said he will miss being on the Board and has enjoyed working with everyone.

Cabral reported he received an invitation to a pension conference at Harvard. He will provide staff with information for the January agenda.

It was **M/S/C** to adjourn the meeting in memory of Paul Katz. (Yes: Buck, Cabral, Gaynor, Hast, Holcombe, Pollacek, Telles, Viramontes)

  
Jerry Telles, Chairman

  
Brian Hast, Secretary