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BOARD OF RETIREMENT MINUTES Different Time & Location **April 8, 2009**

Members Present:	Maria De Anda, Jim DeMartini, Gordon Ford, Darin Gharat, Wes Hall, Mike Lynch, Ron Martin, and Clarence Willmon
Alternate Member Present:	Linda Stotts-Burnett (Alternate Retiree Representative)
Members Absent:	*Mike Fisher*
Staff Present:	Tom Watson, Retirement Administrator Kelly Cerny, Executive Secretary Hank Skau, Operations Manager
Counsel Present:	Deirdre McGrath, Deputy County Counsel Harvey Leiderman, Esq., Reed Smith
Others Present:	Robert McCrory & Graham Schmidt, EFI Actuaries Rick Robinson, County Chief Executive Officer

1. Meeting called to order at the Nick B. Blom Library, Salida, at 1:11 p.m., by Gordon Ford, Chair.

2. **Roll Call**

3. **Announcements**

   Mr. Ford announced that Public Comment will be taken after Item #7. If anyone had questions they wanted a written response to at a later date, to please leave the questions with Mr. Watson.

   Mr. Watson announced that no decisions would be made today regarding the actuarial review and analysis. The meeting was simply to present the actuarial review and analysis to the Board of Retirement. He also informed the public that the Board of Retirement would not be discussing or taking any action on retiree ad hoc benefits at this meeting. Mr. Watson informed the public in attendance that due to the possible length of the meeting it is being videotaped and audio recorded to be available to view and listen to on StanCERA's website. Mr. Watson said the overflow in the lobby would be listening to the meeting via speakers, due to the Community Room having reached its capacity.

Item #4 Heard Out of Order – After Item #7

5. **Consent Items**

Motion was made by Wes Hall and seconded by Maria De Anda to approve the following items as listed.

Motion carried.

a. Approval of the March 24, 2009 Investment Meeting Minutes

b. Approval of the SACRS' Board of Directors 2009-2010 Election - Final Ballot

c. Approval of the SACRS' Business Meeting Agenda, May 15, 2009

d. Approval of Service Retirement(s) – **Sections 31499.14, 31670, 31662.2 & 31810**

1. Roy Lark Downs, StanCOG, Effective 03-31-09
2. Gail Faso, HSA, Effective 03-17-09
3. Jacqueline Hubbard, CSA, Effective 04-09-09
4. Daniel Johnson, Public Defender, Effective 04-25-09
5. Francis McNally, DCSS, Effective 04-25-09
6. Linda Preston, CSA, Effective 03-28-09
7. Michael Stone, District Attorney, Effective 02-28-09
8. John Turner, CSA, Effective 03-21-09

e. Approval of Deferred Retirement(s) – **Section 31700**

1. Dawna Frenchie, District Attorney, Effective 12-05-08
2. John H. Hallford, Sheriff, Effective 02-02-09
3. Mark Neri, City of Ceres, Effective 02-21-09
4. Carol Rosa, CSA, Effective 01-09-09

f. Approval to RESCIND Service Retirement Application

1. William Andrew, District Attorney, Effective 03-27-09 (RESCIND Approval of 03-11-09)

g. Approval of Death Benefits

1. William A. Medeiros, Deceased March 27, 2009, Active Member, Option Pursuant to Government Code Section 31781.

6. **Presentation of StanCERA's Draft Actuarial Review and Analysis as of June 30, 2008**

a. Harvey Leiderman, Esquire, Reed Smith – Framework for Consideration of Changes in Actuarial Funding Methodologies

Mr. Leiderman introduced himself as an attorney specializing in fiduciary matters. He noted that StanCERA has inter-generational equity and uses a long-term view of funding. He presented a PowerPoint presentation entitled, *Framework For Considering Changes in Actuarial Funding Methodologies."* He gave an overview of a Board's fundamental fiduciary duties, potential conflicts,

6. **Presentation of StanCERA's Draft Actuarial Review and Analysis as of June 30, 2008 (Cont.)**

a. Harvey Leiderman, Esquire, Reed Smith – Framework for Consideration of Changes in Actuarial Funding Methodologies (Cont.)

while performing its constitutional duty, the recent extraordinary economic events, actuarial and policy issues for the Board to consider, factors to consider, and finally, a checklist for ensuring prudent decision making.

Mr. Leiderman said the Board would be reviewing the snapshot as of June 30, 2008, that EFI Actuaries would present and that the snapshot as of June 30, 2009 will look a lot different. He said there is no interruption in retiree payroll, as StanCERA has enough assets to make payroll benefits. He noted while there was cash flow interruption with investment managers it does not affect the retiree payroll now, nor is there any foreseeable impact.
Amended 04/24/09

Mr. Leiderman conveyed that the priority for this Board is funding the vested benefits. The Board has a fiduciary responsibility to view this issue with prudence and in the context of the current circumstances.

Mr. Leiderman concluded by reminding Board members of the importance of keeping balance in all decisions and to exercise good judgment without fear of conflicts.

b. EFI Actuaries' Presentation of the Draft Actuarial Review and Analysis as of June 30, 2008

Mr. Schmidt and Mr. McCrory were present to give a PowerPoint overview to Board members of the 76-page Actuarial Review and Analysis as of June 30, 2008. Mr. Schmidt began with agreeing with Mr. Leiderman that the review and analysis was in fact a snapshot of a period of time in the system's history. A summary of results depicted the huge increase between the 2006 time period of the last actuarial valuation by Buck Consultants, to EFI Actuaries' actuarial valuation of 2008. The main cause of increases in contribution rates was due to previous faulty demographic assumptions. The net demographic and/or salary experience was almost neutral under correct assumptions. Asset levels were lower than expected due to lower contributions and investment returns as well as Buck Consultants treatment of non-valuation assets.

Mr. Schmidt demonstrated that the Milliman Actuary Audit and EFI Actuaries analysis of Buck Consultants 2006 actuarial valuation revealed some assumptions that need immediate corrections. These include: 1) upon termination or withdrawal from the system when eligible for retirement, people do not take refunds; 2) age-based termination rates were incorrect; termination rates based on service projected liabilities more accurately; and 3) retirement rates were estimated inaccurately. Buck Consultants used termination assumptions based on age alone, not factoring in service years. People are less likely to leave the system after working several years.

Mr. McCrory interjected that there are issues of fact and issues of judgment. The above assumptions are outside the range of generally accepted actuarial practice. Mr. Lynch inquired if these miscalculations arise to the level of reporting Buck Consultants to a regulatory agency. Mr. McCrory responded that from a professional

6. **Presentation of StanCERA's Draft Actuarial Review and Analysis as of June 30, 2008 (Cont.)**

b. EFI Actuaries' Presentation of the Draft Actuarial Review and Analysis as of June 30, 2008 (Cont.)

standpoint this is something that could be and has been reported in other instances to the Actuarial Standards Board for advisement. He noted that Buck Consultants was not malicious. The question to ask is whether Stanislaus County and the Board of Retirement were injured -- was there a cost or liability impact to the County and Board of Retirement that occurred due to the incorrect assumptions. Mr. Leiderman asked if this increased the liability figures. Mr. Schmidt said this was in the review and analysis. Mr. McCrory said it was a cost impact, not a liability impact.

D. Gharat left at 2:26 p.m.

Mr. Schmidt summarized the impact of changes if the correct assumptions had been made in 2006. The gains and losses between 2006 and 2008 by demographics, salary, and new entrants into the system were discussed. The 2006 contribution rate of 9.22% was not enough to actuarially fund benefits. The recalculated rate by EFI using Buck Consultants assumptions is 8.89%. The Three major assumption changes increase the employer's contribution rate by 6.56% for a total of 15.54%.

The new restated rate of 15.54% of payroll represents $32.9 million in annual employer contributions. Normal actuarial changes in demographics, salary, new entrants, contribution shortfall and investment experience added another 3.12% of payroll for a total employer contribution rate of 18.66%. Based on the June 30, 2008 payroll, this will generate $45.2 million in employer contributions.

D. Gharat returned at 2:29 p.m.

Mr. Schmidt showed the Board modeling, or, projection and funding analysis software used involving graphs to view various actuarial methodologies to enable a system to determine how the system's policies can be changed and its effects on contributions and system-funded status. Mr. McCrory likened the projections to the system being eaten by two tigers: one being the inappropriate prior actuarial methodologies which understated the system's liabilities and costs, the second being the unfavorable investment markets. The loss for fiscal year 2008 is sizable and even larger losses are expected for fiscal year 2009. These are issues that the system could not control. Alternatives to correct the situation will be reviewed at a subsequent Board meeting. Mr. McCrory said one way would be to spread the pain over a longer period of time such as a 30-year amortization instead of the current 20-year amortization, in addition to other funding possibilities.

Mr. McCrory concluded by saying now is the time to work together to come up with solutions.

Recessed at 2:57 p.m.

Reconvened at 3:20 p.m.

7. **Presentation by the Stanislaus County Chief Executive Office Regarding the June 30, 2008 Actuarial Review and Analysis**

Mr. Robinson, Chief Executive Officer addressed the Board with the County's significant concern over the employer contribution rates recommended in the draft actuarial report. The rates recommended in the report will result in the County's cost of retirement increasing from $36.3 million in fiscal year 2008-2009 to over $59 million in fiscal year 2009-2010. The $59 million figure includes debt service on pension obligation bonds. This is a $22.7 million increase in a year when the County has a projected decrease in discretionary revenue of over $17 million. The result will be employee layoffs and unprecedented service level reductions for the citizens of Stanislaus County.

Mr. Robinson expressed appreciation for the Milliman Actuarial Audit in identifying the flawed assumptions. The County's concerned is that reserves established in prior years to fund the non-vested benefits were not incorporated into the actuarial review. The County's position is when a program is underfunded as significantly as are the vested benefits in our current retirement system, continuing the non-vested reserves other than to fund the vested benefits is illogical.

Mr. Robinson informed the Board that the County included a proposed increase for all retirement tiers of 6% in its proposed budget. With this increase the County general fund had a $34 million deficit for fiscal year 2009-2010. To balance the budget, the County has rolled out a 36-month budget reduction strategy that includes the use of $8 million in reserves each year for the next three years. The employer retirement contribution rate currently recommended in the draft actuarial report is 3.44% above the cost projected by the County, resulting in an additional $9.2 million increase. If these rates are approved, existing County employees will lose jobs as a result.

Mr. Robinson told the Board that both the County and StanCERA are committed to assuring the existence of a financially sound retirement system for active employees and retirees. He reiterated the County's concern questioning how the non-vested benefits can continue to be funded when the result will be increased actuarial rates and the loss of jobs. The County would like StanCERA to consider postponing the non-vested benefits.

Mr. Robinson asked the Board to consider the following steps before increasing the employer contribution rates:

1. When calculating retirement rates, incorporate the vested and non-vested benefit reserves in the actuarial calculations and base the new contribution rates on these revised calculations.

2. Immediately commission an actuarial analysis of the expected impact associated with fund losses experienced between July 1, 2008 to present day. This will give both the Board and employers an opportunity to begin to plan for future year impacts.

3. The County and StanCERA work transparently and implement a proactive plan to work publicly and in collaboration with contributing agencies to develop alternative scenarios to address the impact associated with the anticipated increases with options and alternatives to be brought back to the Board of Retirement for consideration.

7. **Presentation by the Stanislaus County Chief Executive Office Regarding the June 30, 2008 Actuarial Review and Analysis (Cont.)**

Mr. Robinson concluded by saying historically, the County and StanCERA have experienced a positive partnership that has benefited public agencies, retirees, and active members (employees).

Heard Out of Order

4. **Public Comment**

Mr. Ford asked for public comment.

Lyn Bettencourt, Retiree, addressed the Board on a few issues. He commended the Board for hiring outside counsel specializing in fiduciary experience. He expressed that it was good to have external Counsel included as there could be a potential conflict of interest with the Office of County Counsel.

Mr. Bettencourt said he thinks the County and StanCERA should join together in a lawsuit against Buck Consultants. This is their second strike. Several years ago with this retirement system, the County did a Pension Obligation Bond (POB). When the County asked how much they should pay the system told them Buck Consultants amount. The figure was off by $12 million. Buck Consultants then tried to rectify the mistake.

Mr. Bettencourt said the Board's primary fiduciary duty is to maintain vested and non-vested benefits per the California Constitution. The California Constitution does not ascertain which benefits.

Mr. Bettencourt said the Board of Supervisors should ask for another POB when the numbers line up. He mentioned he appreciates the transparency of StanCERA. Mr. Bettencourt said the system should return to the 30-year amortization instead of the 20-year amortization rate the County had asked for. He said the system has invested money well and has always done so. Mr. Bettencourt said the ad hoc reserves should be adjusted over a span of time as it is much needed by those who retired prior to 1981.

Gary Kailes, Retiree, commented on the public image perceived by local media of the system. It is not the employees or retirees who are the cause of the problem. He would like to see the County and StanCERA work together towards resolution.

Pat Glattke, Retiree, removed her request for public comments as they had already been made by others.

Marlene Jackson, Retiree, had a few questions for the Board. 1) Over the past 10 years when investment earnings were at or over the 8.16% actuary assumption, how were the earnings shared with the County? 2) Ms. Jackson asked for clarification of what the County pays for the employer-paid employee retirement contributions. It was unclear to her in the letter from Mr. Robinson, dated April 3, 2009. She concluded by saying perhaps an option would be to place a cap on the benefit so that the contribution would not be more than 5-10% of the retirement fund. Mr. Ford said Mr. Watson would address Ms. Jackson's questions in writing and forward them to her.

Heard Out of Order (Cont.)

4. **Public Comment (Cont.)**

Mr. Ford inquired if there was additional public comment. There was none. He informed the public if they had additional questions after the meeting, to place them in writing and/or contact Mr. Watson for further explanation.

8. **Administrator**

a. Discussion and Action on Chairman's Request to Set a Special Meeting of the Board of Retirement to Complete the Actuarial Valuation Information Process and Adopt Retirement Contributions Rates

Mr. Watson stated that it had been anticipated that a second meeting to continue today's discussion would be necessary. A survey was taken of Board members' availability during the week of April 20, 2009. Friday, April 24, 2009 was the date most Board members could be present. The Board of Supervisors' Chambers is tentatively reserved for Friday, April 24, 2009 to conclude today's presentation of the actuarial review and analysis.

The Board members reviewed and discussed whether to also adopt the retirement contributions rates at the April 24, 2009 meeting. Mr. Robinson commented that although the County needs the contribution rates to finalize its budget, he encouraged the Board to take the time it needs to assess the actuarial review and analysis.

Motion was made by Darin Gharat and seconded by Wes Hall to set a special meeting of the Board of Retirement to complete the actuarial valuation information process at 2:00 p.m., Friday, April 24, 2009, to be held in the Board of Supervisors' Chambers at 1010 Tenth Street, Modesto, California 95354.

Motion carried.

Motion was made by Mike Lynch and seconded by Jim DeMartini to adopt the retirement contributions rates at the Tuesday, April 28, 2009 Board of Retirement's Investment meeting.

Motion carried.

Mr. Ford announced it was time for questions from the Board members for the actuaries or the attorney.

Mr. McCrory mentioned he was a bit confused and hesitant to answer the first 10 questions of the12 given to EFI Actuaries to address. He commented these are generalities and are basic to actuarial science that deal with detailed calculations. In particular he addressed the various questions regarding excess earnings. He mentioned that from coast to coast excess earnings are not part of the funded ratio. Mr. McCrory said at such time there is a surplus, you de-risk the system by pulling the volatility out of the system. Backing up the annuity is important and then over time the system is 110% funded and you have de-risked the fund. A system should guarantee its promises before it makes promises.

Mr. McCrory said that the question of whether people will put off retirement five

8. **Administrator (Cont.)**

years into the future due to the current stock market and could this be addressed in the 2012 triennial study should wait. Projects facing the actuaries and the system currently are the changing of the actuarial assumptions, the June 30, 2009 actuarial review and analysis, and the 2006-2009 experience study. He mentioned these will be done at the same time and is a serious undertaking. Mr. McCrory noted that the actuaries know numbers but the Board knows people. Mr. Ford asked if the three major assumption changes should be made right away or in a one to two year period. Mr. McCrory responded that the assumptions with judgment grading in over a period of years is fine. He reminded the Board that until the three incorrect assumptions made by Buck are corrected, EFI Actuaries cannot sign off on the actuarial review and analysis. He offered that perhaps lengthening the amortization period and amortizing the 2006-2008 loss separately are options to be considered. General consensus was that more questions would be addressed in depth at the April 24, 2009 meeting.

Tom Broderick, Retiree, questioned where the transparency is if the first 10 questions are too general to answer. Mr. Ford answered that the additional questions will be addressed with specific scenarios provided by the actuaries at the next couple of meetings.

9. **Members' Forum (Information and Future Agenda Requests Only)**

A member of the public asked about conflicts of interest. Mr. Leiderman addressed this issue by explaining the two types of conflict of interests referred to in the law of the State of California. Mr. Leiderman explained the differences between Government Code Section 1090 dealing with conflicts when entering into contracts, which does not apply to this Board, and the Fair Political Practices Commission's (FPPC) Political Reform Act. He said that declaring a conflict of interest is up to the common sense of each Board member, and the Board has no authority to disqualify a Board member based on a conflict of interest. The individual Board member must make the personal decision as to whether they have a conflict when participating in decision making.

Wes Hall announced there would be a Retiree Benefits Committee meeting on Tuesday, April 14, 2009, at 2:30 p.m.

Linda Stotts-Burnett said she is interested in the Board looking into the option of extending the smoothing and amortization period.

10. **Adjournment**

Meeting adjourned at 4:43 p.m.

Respectfully submitted, Tom Watson

Tom Watson, Retirement Administrator

APPROVED AS TO FORM:
JOHN P. DOERING, COUNTY COUNSEL

Deirdre McGrath

Deirdre McGrath, Deputy County Counsel