

MINUTES OF THE REGULAR MEETING OF THE BOARD OF RETIREMENT
LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., THURSDAY, MAY 10, 2018

PRESENT: Vivian H. Gray, Chair
Herman Santos, Vice Chair
Marvin Adams, Secretary
Alan Bernstein
Shawn R. Kehoe
Keith Knox (Chief Deputy to Joseph Kelly)
(Left the Meeting at 10:25 a.m.)
William Pryor (Alternate Member)
Thomas Walsh
Gina Zapanta-Murphy

ABSENT: JP Harris (Alternate Retired)
Joseph Kelly
Les Robbins

STAFF ADVISORS AND PARTICIPANTS

Robert R. Hill, Interim Chief Executive Officer
James Brekk, Interim Deputy Chief Executive Officer
John Popowich, Assistant Executive Officer
Steven P. Rice, Chief Counsel

STAFF ADVISORS AND PARTICIPANTS (Continued)

Dr. Vito Campese, Medical Advisor

Johanna Fontenot, Senior Staff Counsel

Michael Herrera, Senior Staff Counsel

Francis J. Boyd, Senior Staff Counsel

Ricki Contreras, Division Manager
Disability Retirement Services

Tamara Caldwell, Specialist Supervisor
Disability Retirement Services

John Nogales, Human Resources Director

Barry W. Lew, Legislative Affairs Officer

Patrick Maxwell, Member

I. CALL TO ORDER

The meeting was called to order by Ms. Gray at 9:02 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Hill led the Board Members and staff in reciting the Pledge of Allegiance.

III. APPROVAL OF MINUTES

A. Approval of the Minutes of the Regular Meeting of April 4, 2018

Mr. Kehoe made a motion, Mr. Santos seconded, to approve the minutes of the regular meeting of April 4, 2018. The motion passed unanimously.

III. APPROVAL OF MINUTES (Continued)

B. Approval of the Minutes of the Regular Meeting of April 12, 2018

Mr. Santos made a motion, Mr. Adams seconded, to approve the minutes of the regular meeting of April 12, 2018. The motion passed unanimously.

IV. OTHER COMMUNICATIONS

A. For Information

1. March 2018 All Stars

Mr. Brekk announced the eight winners for the month of March: Brittini Haile, Theodora Byers, Alexandra Hollis, Henry Gonsalves, Ernestine Brown, Brittany Bonifacio, Cynthia Guider, and Melissa Salazar for the Employee Recognition Program and Carlos Barrios for the Web Watcher Program. Renee Copeland, Mary Ann Valenzuela, David Chu and Lourdes Diaz were the winners of LACERA's RideShare Program.

2. Interim Chief Executive Officer's Report
(Memo dated April 30, 2018)

The Superior Court has received three installments totaling 3.7 million dollars from the OPEB Trust bringing the total balance of the trust to 900 million dollars.

V. PUBLIC COMMENT

Patrick Maxwell addressed the Board regarding Item XII.

VI. CONSENT ITEMS

Mr. Bernstein made a motion, Mr. Adams seconded, to approve the following agenda items. The motion passed unanimously.

VI. CONSENT ITEMS (Continued)

- A. Ratification of Service Retirement and Survivor Benefit Application Approvals.
- B. Request for an administrative hearing before a referee for applicants Silvia Diharce, Kevin Tobia, and Henry H. Ou. (Memo dated April 26, 2018)
- C. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board dismiss with prejudice Carolyn A. Celestine’s appeal for a service-connected disability retirement. (Memo dated April 23, 2018)
- D. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits & Legislative Committee: That the Board adopt a “Watch” position on Assembly Bill 2004, which would enact the Big Fear Fire Agencies Pension Consolidation Act of 2018. (Memo dated April 20, 2018)
- E. Recommendation as submitted by Robert R. Hill, Interim Chief Executive Officer: That the Board approve attendance of Board members at the National Association of Corporate Directors - Global Board Leaders’ Summit on September 29 – October 2, 2018 in Washington D.C. and approve reimbursement of all travel costs incurred in accordance with LACERA’s Education and Travel Policy. (Memo dated May 1, 2018) (Placed on the agenda at the request of Ms. Gray)

VII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement

Service-Connected Disability Applications

On a motion by Mr. Santos, seconded by Mr. Kehoe, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

APPLICATION NO.

NAME

801C

CHERNG SEA LEE

VII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement (Continued)

Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
802C	LARRY J. BRANDENBURG
803C	MARTIN ACOSTA, JR.
804C	ROY J. ALDANA
805C	GREGG B. PLAMONDON
806C	DONALD W. NICHIPORUK
807C	DEANA C. WALL
808C	DOUGLAS R. DALEY
809C	CHRISTOPHER R. WALTON
810C*	JONATHAN P. BODEN
811C*	HOLLY R. KELLOGG
812C*	WILLIAM E. BARTLETT
813C	SEAN N. MCGROARTY
814C	GLENN R. CALLAWAY
815C*	CHARLENE L. EDWARDS
816C	MARK E. BROWN
817C	JEFFREY L. RIGGIN
818C	MILLICENT G. SCOTT

* Granted SCD – Employer Cannot Accommodate

VII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Law Enforcement (Continued)
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
819C	BYRON G. WAINIE
820C	JOSE L. BOLANOS
821C	DAVID R. SAUER
822C	MATTHEW T. KERFOOT
823C	ROBERT F. BERARDI
823C*	WADIE S. MUSHARBASH

Safety Fire, Lifeguards
Service-Connected Disability Applications

On a motion by Mr. Kehoe, seconded by Mr. Adams, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
1970A	ALEJANDRO HAUA
1971A	MICHAEL D. JUSTINIANO
1972A	GORDON N. KIRIO
1973A	ROBERT F. PERA

* Granted SCD – Employer Cannot Accommodate

VII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

Safety Fire, Lifeguards

Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
1974A	MARIO A. CANTACESSI
1975A	CHRISTOPHER ARVIZU
1976A	NEAL A. DRISCOLL
1977A	RICHARD D. TIBERIO
1978A	ROBERT A. LUGO
1979A	STEVEN L. BERRO
1980A	MARK D. KLEIN
1981A	STEVEN L. DEWITT
1982A*	CLIFFORD S. HOUSER
1983A	LARRY P. JACOBS
1984A	SCOTT A. OGLEVIE

* Granted SCD – Retroactive

VII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR
(Continued)

General Members
Service-Connected Disability Applications

On a motion by Mr. Kehoe, seconded by Mr. Bernstein, the Board of Retirement approved a service-connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
2818B*	DAVID PEREZ
2819B	DARLA J. CANO
2820B	ROSALVA G. GARCIA
2821B**	DANIEL LOPEZ
2822B*	LYDIA J. RICHARDSON
2823B*	SHAHIN CHAMANI
2824B*	DEBORAH J. HAYES
2825B***	MY-HONG VO
2826B	YOLANDA SANCHEZ
2827B	KELLE N. WINTERS
2828B	MARTHA BENZOR

* Granted SCD – Employer Cannot Accommodate

** Granted SCD – Retroactive Since Employer Cannot Accommodate

***Granted SCD – Retroactive

VII. DISABILITY RETIREMENT APPLICATIONS ON CONSENT CALENDAR

General Members (Continued)
Service-Connected Disability Applications

<u>APPLICATION NO.</u>	<u>NAME</u>
2829B	BENSON EKELEM
2830B*	DAVID T. CAMPF
2831B**	LISA R. HOWARD-BAUCOM
2832B*	PAUL E. ANDERSON
2833B***	NANCY E. ESTRADA
2834B***	STACY A. SMITH

General Members
Non-Service Connected Disability Applications

On a motion by Mr. Bernstein, seconded by Mr. Walsh, the Board of Retirement approved a non-service connected disability retirement for the following named employees who were found to be disabled for the performance of their duties and have met the burden of proof:

<u>APPLICATION NO.</u>	<u>NAME</u>
4369	CHRISTINE M. WARD
4370****	LIGIA G. SCHAFFER
4371	MICHAEL HOYOS

* Granted SCD – Employer Cannot Accommodate

** Granted SCD – Salary Supplemental

*** Granted SCD – Retroactive

**** Granted NSCD - Retroactive

VIII. NON-CONSENT ITEMS

A. Recommendation as submitted by Steven P. Rice, Chief Counsel: That the Board authorize staff to:

1. Complete negotiations for and execute a Memorandum of Understanding regarding the OPEB Program with the County of Los Angeles and the Los Angeles Superior Court to establish terms of an agent employer plan structure for allocation and recordkeeping of liabilities for the OPEB Program rather than the current cost-sharing structure; and
2. Negotiate and, if agreement between the parties can be reached, execute a Memorandum of Understanding with the South Coast Air Quality Management District, the Local Agency Formation Commission for the County of Los Angeles, the Los Angeles County Office of Education, and the Little Lake Cemetery District to establish an agent employer plan structure for allocation and recordkeeping of those entities' liability for the OPEB Program, on such terms as appropriate to the circumstances of each of the listed other agencies, without the need for further approval by the Board of Retirement.

(Memo dated April 27, 2018)

Mr. Rice was present to answer questions from the Board.

Mr. Santos made a motion, Mr. Kehoe seconded, to approve the recommendation. The motion passed unanimously.

B. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits & Legislative Committee: That the Board adopt an "Oppose" position on Senate Bill 1031, which would prohibit the payment of cost-of-living adjustments.

(Memo dated April 25, 2018)

1. Alternatively, recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Board adopt a "Watch" position on Senate Bill 1031.

(Supplemental Agenda memo dated April 25, 2018)

Mr. Lew was present to answer questions from the Board.

VIII. NON-CONSENT ITEMS (Continued)

Mr. Kehoe made a motion, Mr. Santos seconded, that the Board adopt an “Oppose” position to Senate Bill 1031. The motion passed unanimously.

- C. Recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Board instruct its voting delegate to vote “Yes” on SACRS sponsorship of SB 1270. (Memo dated April 24, 2018)

Mr. Kehoe made a motion, Ms. Gray seconded, to approve the recommendation. The motion passed unanimously.

- D. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits & Legislative Committee: That the Board adopt the revised Legislative Policy. (Memo dated February 27, 2018)
(Supplemental Agenda memo dated May 1, 2018)

Mr. Kehoe made a motion, Ms. Gray seconded, to approve the recommendation. The motion passed unanimously.

- E. Recommendation as submitted by Barry W. Lew, Legislative Affairs Officer: That the Board authorize staff to submit a comment letter in response to IRS Notice 2018-24 on the potential expansion of the determination letter program during the 2019 calendar year, and engage tax counsel Don Wellington of Reed Smith LLP to prepare the letter at fees and costs not to exceed \$9,500. (Memo dated April 30, 2018)

Mr. Kehoe made a motion, Mr. Santos seconded, to approve the recommendation with the exception that fees/costs not be limited to a certain amount. The motion passed unanimously.

IX. REPORTS

The following reports were received and filed.

IX. REPORTS (Continued)

- A. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the Application Processing Time Snapshot Reports. (Memo dated April 13, 2018)
- B. For Information Only as submitted by Barry W. Lew, Legislative Affairs Officer, regarding the Update on AB 2085 – Definition of Surviving Spouse. (Memo dated April 24, 2018)
- C. For Information Only as submitted by John Nogales, Human Resources Director and Roberta Van Nortrick, Training Coordinator, regarding the Sexual Harassment Prevention Training for Trustees. (Memo dated April 23, 2018)
- D. For Information Only as submitted by Steven P. Rice, Chief Counsel, regarding the April 2018 Fiduciary Counsel Contact and Billing Report. (Memo dated May 1, 2018) (Privileged and Confidential Attorney-Client Communication/Attorney Work Product)

X. REPORT ON STAFF ACTION ITEMS

The Board requested that consideration be given to posting Board member's completion of the Sexual Harassment Prevention Training on the website. In addition, the Board requested that consideration be given to a webcast option for Sexual Harassment Training.

XI. GOOD OF THE ORDER
(For information purposes only)

Mr. Kehoe shared his new position as a Lieutenant in the Fraud and Cyber Crimes Bureau managing the Major Fraud Investigation teams.

XII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability

APPLICATION NO. & NAME

BOARD ACTION

5008B – THERESA A. WORLEY

Mr. Kehoe made a motion, Mr. Adams seconded, to grant a non-service connected disability retirement pursuant to Government Code Sections 31720 and 31724.

Ms. Gray made a substitute motion, Mr. Adams seconded, to return back to staff for further development. The motion passed unanimously.

5009B – RONALD RIMER (DEC'D)*

Mr. Kehoe made a motion, Mr. Bernstein seconded, to deny a service connected disability retirement survivor death benefit. The motion passed unanimously.

5010B – PATRICIA DELGADO

Mr. Adams made a motion, Mr. Pryor seconded, to deny a service connected disability retirement since the employer can accommodate. The motion passed unanimously.

6969A – MICHAEL A. ETTER

Ms. Gray made a motion, Mr. Bernstein seconded, to grant a service connected disability retirement pursuant to Government Code Sections 31720 and 31724 since the employer cannot accommodate. The motion passed unanimously.

* Applicant Survivor Present

XII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

A. Applications for Disability (Continued)

APPLICATION NO. & NAME

BOARD ACTION

696C – PATRICK E. MAXWELL

(Mr. Kehoe recused himself from discussion of this case and returned after Board discussion.) (Mr. Knox left the meeting at 10:24 a.m.)

Mr. Santos made a motion, Mr. Pryor seconded, to grant a service connected disability retirement. The motion passed (roll call) with Messrs. Pryor, Adams, Santos, Walsh, Ms. Gray, and Ms. Zapanta-Murphy voting yes; and Mr. Bernstein voting no.

6998A – JUN CHANG

Mr. Kehoe made a motion, Mr. Adams seconded, to grant a service connected disability retirement pursuant to Government Code Section 31720. The motion passed unanimously.

B. Referee Reports

APPLICATION NO. & NAME

BOARD ACTION

NGUYET P. NGUYEN – In Pro Per

Eugenia W. Der for the respondent

Mr. Bernstein made a motion, Mr. Kehoe seconded, to deny a service connected disability retirement and find the applicant not permanently incapacitated. The motion passed unanimously.

XII. DISABILITY RETIREMENT CASES TO BE HELD IN CLOSED SESSION

C. Referee Reports (Continued)

APPLICATION NO. & NAME

BOARD ACTION

DAWN C. SMITH – Jacob B. Borenstein for the applicant
Allison E. Barrett for the respondent

Mr. Bernstein made a motion, Mr. Adams seconded, to deny a service connected disability retirement and grant a non-service connected disability retirement. The motion passed unanimously.

D. Staff Recommendations

1. Recommendation as submitted by JJ Popowich, Assistant Executive Officer: That the Board approve the service provider invoices for Gutierrez, Preciado & House, LLP. (Memo dated April 17, 2018)

Mr. Adams made a motion, Mr. Pryor seconded, to approve the agenda item. The motion passed unanimously.

2. Recommendation as submitted by Ricki Contreras, Division Manager, Disability Retirement Services: That the Board instruct staff to close Reynold Dong's Application for Disability Retirement. (Memo dated April 23, 2018)

Mr. Bernstein made a motion, Ms. Gray seconded, to approve the agenda item. The motion passed unanimously.

3. For Information Only as submitted by Ricki Contreras, Division Manager, Disability Retirement Services, regarding the 2018 Quarterly Reports of Paid Invoices for the 1st Quarter – January 1, 2018 to March 31, 2018. (Memo dated April 23, 2018)

This item was received and filed.

XIII. EXECUTIVE SESSION

- A. Conference with Legal Counsel - Existing Litigation
Significant Exposure to Litigation (Pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9)
1. Tod Hipsher vs. LACERA, County of Los Angeles and State of California
LASC Case No. BS 153372; Court of Appeal No. B276486
 2. Gina McDowell v. Los Angeles County Employees Retirement Assoc.
LASC Case No. BS 169513
For Information Only

The Board met in Executive Session with counsel, pursuant to Paragraph (1) of Subdivision (d) of California Government Code Section 54956.9. In the cases of Tod Hipsher vs. LACERA and Gina McDowell v. LACERA. There was nothing to report.

XIV. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 11:05 a.m.

Green Folder Information (Information distributed in each Board Member's Green Folder at the beginning of the meeting)

1. Retirement Board Listing dated May 10, 2018
2. Disability Retirement Correction Memo – Michael A. Etter (#6969A)
3. Disability Retirement Appeal Summary and Agenda – Nguyet P. Nguyen
4. Tod Hipsher vs. LACERA, County of Los Angeles and State of California (Privileged and Confidential) (Attorney-Client Communication) (Memo dated May 8, 2018)
5. Supplement to April 2018 Fiduciary Counsel Contact and Billing Report (For Information Only) (Privileged and Confidential) (Attorney-Client Communication/Attorney Work Product) (Memo dated May 7, 2018)

MARVIN ADAMS, SECRETARY

VIVIAN H. GRAY, CHAIR