

**REGULAR MEETING OF THE BOARD OF ADMINISTRATION
RETIREMENT BOARD
WATER AND POWER EMPLOYEES' RETIREMENT PLAN**

MEETING – October 16, 2002

Present:

Javier Romero	President
Dan Mirisola	Vice President
Lilly Calvache	Board Member
Ron Vazquez	Chief Financial Officer
Annie E. Cho	Commissioner
David H. Wiggs	General Manager

Absent:

Norma Bertrand	Retiree Member
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Others Present:

Duamel Vellon	Retirement Plan Manager
Sangeeta Bhatia	Assistant Retirement Plan Manager
Silvia Tesseneer	Recording Secretary
Mike Wilkinson	Deputy City Attorney

The meeting was called to order at 10:12 am after the Pledge of Allegiance.

[Pledge of Allegiance]

Mr. Romero welcomed Commissioner Annie Cho. Mr. Vellon indicated there was quorum of the Board. Upon inquiry from President Romero, Mr. Vellon reported there was one request for public comment from Mrs. Dolores Foley.

PUBLIC COMMENTS

President Romero recognized Mrs. Dolores Foley.

Mrs. Foley, President of the Retired Employees Association, thanked Ms. Bhatia for her presentation to the retirees on Saturday, October 12, and indicated a future presentation to the retirees, by the retirement Plan Manager, was scheduled the second Saturday in October 2003. Mr. Vellon stated Ms. Bhatia had been asked to mark her calendar and either he or Ms. Bhatia would be attending next year.

Mr. Vellon reported items 1 and 2 were submitted for consent approval as follows:

1. Approval of Minutes for the September 18, 2002 Board Meeting.

**2. Termination from Monthly Rolls as of October 2002;
Retirement Resolution for October 2002
Terminations for October 2002 Family Death Benefit Roll
Termination for October 2002 for Margaret E. Whitlow from the
Survivorship Roll**

Mr. Wiggs moved adoption of the above items 1 and 2 on consent. Seconded by Ms. Calvache. Mr. Mirisola suggested striking the public comment section from the Board minutes of September 18. He noted the comments do not evolve around any discussion and only reflect an opinion, and it is not appropriate for these to be part of the records. Mr. Wiggs inquired if the public comments were usually included as part of the minutes. Mr. Vellon responded in the affirmative. Mr. Wiggs expressed whatever the minutes normally reflect should not be changed. Discussion ensued among the Board members on whether or not to omit the public comments. Mr. Wilkinson advised was it was up to the Board's discretion. Ms. Cho inquired if there was an opportunity for Board members to address the people making public comments. Mr. Romero responded in the negative, stating the Board attorney had advised public comments are not an agenda item and are not subject of discussion.

Mr. Wilkinson noted his previous advice to the Board was public comments were not subject of discussion, however, his more recent research indicates the Board is allowed to make brief responses to public comments, but are not required to. Mr. Wilkinson clarified, for the record, Donna Weisz Jones' title is Assistant City Attorney and not Deputy City Attorney, and the minutes should be corrected accordingly. Discussion on whether public comments should be stricken continued and Mr. Wiggs motion failed on a 3 to 3 vote. Mr. Mirisola then moved the public comments be stricken from the minutes. Seconded by Ms. Calvache and the motion failed after the following tie vote:

Ayes: Mirisola, Romero, and Calvache
Nays: Cho, Vasquez, and Wiggs

Upon more discussion Mr. Vellon suggested Board members could vote on consent Item 2 and then Item 1 could be brought to next month meeting. Mr. Vazquez moved adoption of consent Item 2. Seconded by Mr. Mirisola and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Vazquez, Cho and Wiggs
Nays: None

Mr. Vellon introduced agenda items 3 to 14 to be received and filed as follows:

- 3. Benefits Committee Minutes of September 18, 2002.**
- 4. Report of Payment Authorizations as of September 2002.**
- 5. Short Term Investments as of September 30, 2002.**

6. **Stock Portfolio Listing as of September 30, 2002.**
7. **Report on Long Term Investments (Bonds) as of September 30, 2002.**
8. **Security Transactions for the month of September 2002.**
9. **Distribution of Securities by Type and Class as of August 31, 2002.**
10. **Statement of Investments owned as of August 31, 2002.**
11. **Equity Investments as of August 31, 2002.**
12. **Notice of Deaths as of September 2002.**
13. **Report “Additional Information on Fiduciary Liability Insurance of Other Plans” submitted by Attorney Donna Jones.**
14. **Board of Commissioners appointment of Ms. Annie E. Cho as the Commissioner member of the Board of Administration of the Water and Power Employees’ Retirement Plan.**

Mr. Vellon reported Item 14 included the Board of Commissioners’ confirmation of Commissioner Cho as Retirement Board member.

Mr. Vazquez inquired about Item 8, regarding security transactions for the month of September 2002. He inquired if the cash proceeds (\$37 million) from sale of Fannie Mae bonds was intended to remain invested in cash equivalents. Mr. Vellon responded the Plan Investment managers had not reported on this yet, but he offered to get their response for Mr. Vazquez. He indicated, however, cash reserves accumulated by the Plan managers are generally for their discretionary use. After a brief discussion Mr. Vazquez noted he understood the managers discretionary use of cash and moved Items 3 to 14 be received and filed. Seconded by Mr. Mirisola and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Vazquez, Cho and Wiggs
Nays: None

15. **Consideration of Plan changes adopted by the Board of Commissioners October 1, 2002:**
 - a) **Implementing rollover provisions under IRS Code and State laws (all Plan members).**
 - b) **Implementing the Memorandum of Understanding (MOU) between DWP and IBEW Local 18.**
 - c) **Authorization of modification to the Plan’s computer routines/programs consistent with the Plan changes just adopted.**

Mr. Vellon stated regular agenda Item 15 included the October 1, 2002 Board of Commissioners approval of the Retirement Plan changes breaking down the amendments into two types. (Plan language handed out to Board members at the beginning of this meeting). One represents a technical amendment allowing rollover of contributions from other eligible tax deferred accounts to the Retirement Plan, for purchases of other governmental services. He noted this technical amendment covers all Plan members. He explained the second set of amendments deal with the implementation of the Memorandum of Understanding (MOU) between DWP and Local 18. He indicated Plan amendments require Board of Commissioners and Retirement Board action. Mr. Vellon stated the Retirement Board had approved the proposed Plan language in principle and such language was submitted to the Board of Commissioners, who approved it and sent it back as a formal Plan language for Retirement Board adoption. He indicated this completes the Plan amendment process, providing authority for the implementation of the changes.

Mr. Vellon clarified the proposed Board resolution also encompasses authorization for amending the Plan's computer applications to reflect 2.3% factor (versus 2.1%) negotiated only for Local 18 members who meet the eligibility criteria. He suggested, based on this information, it is recommended the Retirement Board approve the Plan changes through Resolution 03-27. He reported retirees who are eligible for the new 2.3% factor have been notified of the adjustments to be incorporated into the November 1 pension payroll, subject to the Board's adoption of the draft resolution 03-27.

Ms. Calvache inquired how the retirees were notified and would they receive a retroactive check. Mr. Vellon responded a letter was mailed to eligible retirees, including a summary of the retro amounts due and the newly calculated monthly pension after the 2.3% factor. He added the retirees would receive, on November 1, a retroactive payment averaging \$3,000 (or \$105,000 for all eligible retirees) and their regular monthly pensions were properly recomputed.

Mr. Vazquez pointed out the wording in Resolution No. 03-27 Item 2 (d) should be clarified to read "spouse or eligible domestic partner". It was the consensus to so proceed. Mr. Mirisola then moved adoption of Resolution 03-27 with the noted correction. Seconded by Mr. Wiggs and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Vazquez, Cho and Wiggs

Nays: None

16. Consideration of Board Policies implementing the technical and Local 18 MOU Plan changes adopted by the Board of Commissioners October 1, 2002.

Mr. Vellon reported the need for adoption of Policies (5 and 6) as a result of the Plan language approved by the Board under Agenda Item 15. He explained Policy 6 corresponds to the technical amendment for rollovers and requested this be tabled to allow Plan staff to provide more input. He noted proposed staff changes will be reflected in the final draft policy to be submitted at a future meeting.

Mr. Vellon further explained draft Policy 5, in the draft packet, refers to the Local 18 MOU plan changes. He clarified under Policy 5 the negotiated Plan changes would affect regular Local 18 members, as well as “agency contributors”. He explained “agency contributors” make Local 18 contributions, but are not full union members. He noted regular and “agency” members are coded different within the DWP payroll system.

Mr. Vellon summarized the Local 18 negotiated changes as follows:

- implementing unreduced pension benefits at age 50 with 30 years (50/30)
- eligible members (50/30) qualify only if they are Local 18 members at time of retirement.

Mr. Vellon explained another Local 18 change involves 100% compensation, as long as IRS regulations permit and subject to Plan counsel advise if the IRS provisions ever change. He then explained the proposed policy clarifies the 2.3% formula affects Local 18 members under retention bonus (those getting 2 years of service for 1 for up to 5 years) and such members can meet the 30 years with such retention bonus, provided they meet the age 55 requirement. Mr. Vellon also clarified the proposed policy reiterates the “option D” 100% benefit to a “surviving spouse” (or domestic partner) covers deaths after October 1, 2002, providing a higher pension to an eligible spouse or domestic partner, when compared to the old death benefit language under “Option B” 100% payable to a beneficiary. He recommended adoption of proposed Board Policy No. 5, to facilitate implementation of the necessary Plan changes.

Mr. Romero expressed his appreciation for Mr. Vellon’s explanation of Policy No. 5 for clarity for himself and for the Plan membership. Mr. Vellon indicated the explanation would also be included in the next active employees newsletter (Sample attached to Agenda packet).

Mr. Wiggs commented the Department intends to expand the same Plan benefits to the other union and executives, so all members ultimately can have the same retirement benefits. Mr. Vazquez recommended Item D 3 in the proposed draft policy reflect (for clarity) “eligible domestic partner” in the parenthesis, along with the word “spouse”. He also inquired who, other than Local 18 members, would be eligible for retirement under the new provisions. Mr. Vellon responded two types of Local 18 members have been identified, those who actually join through application (Local 18 members) and those who get union deductions taken out, but are not members (“agency members”). He added the latter are still considered part of the Local 18 bargaining unit. Significant discussion ensued relative to the distinction between an “agency” and a regular Local 18 member. Mr. Vazquez and Mr. Wiggs expressed the “agency” discussion herein described could be incorporated into the Plan language as an amendment by the Board of Commissioners. Mr. Mirisola suggested the distinction may not be necessary. Attorney Wilkinson advised to have generic wording rather than specific reference to “agency member”. Mr. Vellon expressed his preference for the proposed policy language to be specific for purposes of easier implementation by staff.

Ms. Calvache inquired if staff would check under what bargaining unit the member is, before applying the new benefits. Mr. Vellon responded in the affirmative. Ms. Calvache proposed approval of the draft policy, subject to conferring with Local 18 regarding the language, explaining the policy/resolution, and allowing their input and preferences if any. Atty. Wilkinson clarified if the resolution was approved, it would be as it is right now, but it could be brought back and amended as necessary. It was the consensus to so proceed and to come back the next Board meeting, with Local 18's recommendations and with any proposed policy amendments if needed. Ms. Calvache moved adoption of Policy No. 5 as presented and discussed. Seconded by Mr. Wiggs and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Vazquez, Cho and Wiggs

Nays: None

Mr. Wiggs left the meeting.

17. Consideration of possible Board Policy change permitting the release of the Plan's monthly pension payments on last business day of the month, whenever the 1st of the month (normal pension pay date) falls on Sunday or holiday.

Mr. Vellon stated this item was included on the agenda at the request of Mr. Mirisola. He indicated some retirees had reported difficulty accessing their monthly (direct deposit) pension payments when the first day of the month falls on a Sunday or holiday. He added some retirees had expressed their desire to receive the funds before the weekend/holiday rather than after.

Mr. Mirisola explained, prior retirement, Board staff had gone before the members and informed them when they retired they would receive their checks on the first day of the month, but when the first falls on a Sunday or holiday the funds are not available until the third day. He suggested a new Board policy should be formalized to assure the direct deposit payments are available to the retirees before the Sunday or holiday. Upon discussion Mr. Vellon explained the issue for action is when the funds are good for direct deposits. He reported some banks allow retirees to access their funds before the Sunday or holiday and others don't. He added a change in Board policy can be easily implemented. Ms. Bhatia commented the funds are currently available on the first business day of the month.

Mr. Mirisola moved adoption of a new Board pension payment policy as outlined under agenda item 17. Seconded by Ms. Cho and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Vazquez, and Cho

Nays: None

Attorney Wilkinson suggested a Board resolution be drafted to implement this policy. Mr. Vellon indicated he was waiting for Board direction before writing a draft resolution and this will now be possible.

18. Consideration of adoption of resolution changing the time of the Board's regular meetings from the 3rd Wednesday of the month at 10:00 a.m. to the 3rd Wednesday of the month at 8:30 a.m.

Mr. Vellon stated there were two requests for public comments on this Item 18 from Mr. Vincent Foley and Mr. David Bendikson. Mr. Mirisola interjected this agenda item was no longer necessary since Ms. Calvache expressed she was just trying to accommodate Ms. Cho's schedule. Ms. Calvache noted Ms. Cho had indicated she may not be able to attend Board meetings at 8:30 a.m. and therefore there is no need for changing the time of the meeting. Board members agreed to continue having regular meetings at 10:00 a.m. Mr. Vellon inquired if the two public members still wanted to comment and Mr. Foley and Mr. Bendikson responded in the negative.

19. Consideration of the benefits case of deceased retiree Charles Louis Parge for consideration of "Interpleader action" or determination of rightful beneficiary.

Mr. Vellon explained Mr. Charles Louis Parge retired in 1981 and divorced in 1995 and a court order mandated he name his former spouse (Ellen Parge) as beneficiary of his death benefits. He further explained Mr. Parge subsequently remarried (in 1995) and submitted a change of beneficiary form, in 1997, naming his new wife (Marjorie Parge), contrary to what the court order mandated. He stated the attorney for the first wife wrote a letter to the retirement office inquiring if his client would get the benefits if the retiree died, alerting the staff about the change of beneficiary form naming the current wife. He indicated a legal opinion was requested on the rightful beneficiary. He added the Plan attorney initially advised the current spouse (now his widow) was the rightful beneficiary, but suggested the staff communicate with the retiree to have him change the beneficiary back to his ex-wife.

Mr. Vellon indicated the last letter to the retiree was June 4, but the retiree died on June 5, 2002. He added there are now two conflicting claims. He added the City Attorney subsequently suggested a letter be sent indicating the widow (Marjorie) would be recognized as the beneficiary, unless there were conflicting claims. Mr. Vellon indicated upon receipt of the conflicting claims, the City Attorney recommended either paying the first wife (Ellen) or the Board may choose to file an "Interpleader action" essentially paying the benefits to the Court and letting the Court decide. Mr. Vellon recommended Board adoption of a resolution directing an Interpleader action be filed in this case.

Atty. Wilkinson reiterated what Mr. Vellon stated, adding filing the Interpleader action was the most conservative approach and alleviates DWP from double liability if the benefits were paid to Ellen and a court later determines Marjorie is the beneficiary. Mr. Vazquez noted an error on the September 13th memorandum submitted by Mr. Wilkinson showing a date October 2 in the header and on the back page (page 20a.1 of the agenda), the date reads November 13, 2002. He added the same error shows on the summary of legal opinions. Attorney Wilkinson clarified the correct date was October 2. Mr. Vazquez then moved adoption of Resolution 03-29 as proposed. Seconded by Mr. Mirisola and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Vazquez, and Cho

Nays: None

20. Retirement Plan Manager's comments

a) Legal Opinions received.

Mr. Vellon stated the summary of the Legal Opinions includes only Mr. Parge's case (discussed under Item 19) and the date of "November 13" should read "September 13".

b) DWP Plan Newsletter for retirees (September 30, 2002 Edition)

Mr. Vellon reported the Board had already received a copy of the September 30, 2002 Newsletter for DWP retirees.

c) DWP Plan Newsletter for active members (October 2002)

Mr. Vellon reported Mr. Victor Wong, from the Retirement office, designed the new newsletter for active employees, included in the agenda packet. He commended Mr. Wong for his excellent job.

d) General Items.

Mr. Vellon indicated the next Special Board meeting was scheduled for November 7, 2002.

He stated the Retirement office successfully suppressed the retirees' bank account numbers from the check stubs for direct deposit (on an optional basis) for security reasons.

Mr. Vellon reported a successful renegotiation of the "basis points" the bank of New York charges on the short-term investment fund (STIF fund), negotiating these from 35 basis points down to 10 basis points.

The Board meeting was adjourned at 11:02 AM

JAVIER ROMERO
President

DUAMEL VELLON
Secretary

SILVIA TESSENEER
Recording Secretary