

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

MEETING – October 15, 2003

Present:

Javier Romero	President
Lilly Calvache	Vice President
Ron Vazquez	Chief Financial Officer
Michael Moore	Retiree Member
Leland Wong	Commissioner

Absent:

David Wiggs	General Manager
Dan Mirisola	Board Member

Others Present:

Duamel Vellon	Retirement Plan Manager
Silvia Tesseneer	Recording Secretary
Alan Emkin	PCA (Pension Consulting Alliance)
Mary Jo Curwen	Deputy City Attorney
Mike Wilkinson	Deputy City Attorney

The meeting was called to order at 10:08 a.m. after the Pledge of Allegiance.

[Pledge of Allegiance]

Mr. Vellon indicated there was quorum of the Board.

PUBLIC COMMENTS

President Romero inquired if there were any public comments and there were none.

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

- 1. Approval of Minutes for the September 17, 2003 Regular Board.**
- 2. Termination from Monthly Rolls as of October 2003:
Retirement Resolution for October 2003.
Termination from the October 2003 Family Death Benefit Roll: Scott Chikuami – attained 18 years of age.
Termination from the October 2003 Survivorship Roll: Margaret Kuehne and Leora Thompson – death.
Termination from October 2003 Family Death Benefit Roll: Scott Chikuami – Attained 18 years of age.**

**Termination of Barbara J. Mikovec as Trustee for Jan Mikovec (Disabled adult).
Appointment of Carolyn L. Weidman as Trustee for Jan Mikovec (disabled adult).**

Ms. Calvache moved adoption of the above items 1 and 2 on consent. Seconded by Mr. Wong and carried unanimously after the following vote:

Ayes: Romero, Vazquez, Moore, Wong and Calvache
Nays: None

- 3. Special Board Minutes of September 3, 2003.**
- 4. Report of Payment Authorizations as of September 2003.**
- 5. Short Term Investments as of September 30, 2003.**
- 6. Report on Long Term Investment as of August 31, 2003.**
- 7. Notice of Deaths as of September 2003.**
- 8. Retirement Plan – Updated Organization Chart (Reflecting Investments and Computerization).**

Mr. Vellon recommended items 3 through 8 be received and filed. He pointed out item 8 represents the Plan's organizational chart reflecting the new investment and computerization teams, necessary to handle the Plan's full discretion format under multiple investment managers. He added new positions had been created with approval of the Retirement Board and the Board of Commissioners.

Mr. Vazquez referred to page 4.76 of the Board agenda packet and inquired how the overpayments of DWP contributions work. Mr. Vellon explained, typically budgeted amounts are allocated to the Retirement Plan and then at the end of the year any surplus funds are refunded to the Department. He added this has been a routine procedure taking place for many years.

After more discussion, Ms. Calvache moved the above Items 3 through 8 be received and filed. Seconded by Mr. Vazquez and carried unanimously after the following vote:

Ayes: Romero, Vazquez, Moore, Wong and Calvache
Nays: None

- 9. Consideration of Plan (back-up) portfolio transition providers after full funding of the Plan's passive Russell 1000 allocation, as recommended by the Plan's consultant Pension Consulting Alliance (PCA).**

Mr. Vellon stated this item had been carried over from prior meetings and Mr. Emkin (PCA) was present to discuss the issue and answer any questions. He explained the item referred to the portfolio transition providers the Board requested be maintained in

case of: 1) The Bank of New York (BNY) transition services were not up to speed, 2) BNY transition services fee was not at the proper cents per share, and 3) (Per Mr. Emkin's advice) there could be more Plan transitions down the road requiring more sophisticated expertise and therefore it would be a good idea to have a stable of transition managers as a back up.

Mr. Emkin expressed PCA was recommending the Board encourage competition relative to transition services. He stated PCA used the RFIs (Request for Information) intended to give the Board the ability to use a multiplicity of vendors, as opposed to one vendor, permitting more negotiating ability and the ability to select a company with superior skills for specialized transitions. He added the purpose of the RFI was to comply with due diligence requirements and to create an environment wherein best execution at the best cost can be achieved.

President Romero indicated he agreed with Mr. Emkin, adding the stable of providers would also make BNY accountable in performing under the existing transitions. He noted this is certainly going to be something the Retirement Board will be considering when moving forward with the remaining Plan portfolio transitions. Ms. Calvache expressed agreement with President Romero.

Mr. Moore inquired if he was correct in assuming BNY is capable of handling all of the Plan transitions, particularly in terms of Small Cap and International portfolios. Mr. Emkin responded in the affirmative. Mr. Moore noted, one of the issues highlighted was the fact two out of PCA's top three fiduciary providers (Frank Russell and State Street) were selected along with Merrill Lynch. He noted Frank Russell has a large correspondent group they work with and inquired if they were capable of handling all the different types of transitions the Board will be undertaking. Mr. Emkin responded Frank Russell has executed trades in all of the areas. Mr. Moore inquired if PCA, as Plan consultant, feels Frank Russell would be just as competitive in those areas. Mr. Emkin emphasized the reason for the pool was for the Board to see where they would get the best execution and pricing. He stated all of the firms are probably not equal in certain parts of the capital markets, which is why PCA encourages the competition. Mr. Moore inquired if it was likely, going forward with other parts of the Plan's portfolio transition, that PCA would be recommending one of these three firms, instead of BNY, even if BNY is satisfactorily executing the transitions they are currently performing. Mr. Emkin responded it was possible.

Mr. Moore also noted PCA emphasized Merrill Lynch has the capability of handling large transactions as principal, but this would be in conflict with them acting as a fiduciary. He then inquired how Merrill Lynch would be able to perform with respect to its fiduciary responsibilities. Mr. Emkin responded Merrill Lynch has already stated they would be willing to act as a fiduciary, but this would limit certain types of transactions when they are on the other side of the trade, therefore, they would be acting as an agent and not as a principal.

Mr. Moore inquired what happens if Merrill Lynch is competing in a future manager search and find themselves, if selected, transitioning to their own portfolio and potentially another portfolio that would be competitive with them because they are going

against the same benchmark. Mr. Emkin responded he was not sure if Merrill Lynch has bid for any of the other mandates and they already have two mandates with the Board. He added it would be somewhat unusual to have more portfolios, but there is not a precedent on this. He suggested the Board should take this under consideration in their selection process. Mr. Moore inquired if this would be a reasonable thing to be concerned about. Mr. Emkin responded, from the Board's perspective, as fiduciaries, it was unequivocally something to be concerned with. He stated, from Merrill's perspective, they would not risk the reputation and legal liability of their trading desk to benefit a portfolio manager within their company. President Romero reported Merrill Lynch indicated to him they would not be bidding for any more Plan portfolio manager searches.

Mr. Moore inquired what bids were left. President Romero responded Small Cap Value, Small Cap Growth, International - Emerging Markets, Fixed Income Core, Alternative Investments, Fixed Income - High Yield and Real Estate.

Mr. Moore noted PCA indicated in the case of the High Yield, the candidate selected might prefer to be funded with cash, rather than working with a transition, and inquired what was the likely tradeoff in terms of actual cost to DWP. Mr. Emkin responded High Yield was challenging because it involves a thinly traded market. He stated, in the stock market, the bid and ask on a publicly traded stock could be \$.01, \$.02 or \$.03, depending on the volume and the liquidity in the specific stock, but in the high yield market, it could be as high as \$1.00 or \$2.00, depending upon the supply and demand in the market on any given day. Mr. Emkin noted one would really want to work closely with the trader of the high yield manager, in order to understand their strategy and what they were buying.

Mr. Vellon informed the Board there was a resolution on page 9.2 of the agenda packet regarding the motion to include the names Mr. Moore indicated, as recommended by PCA. Mr. Vazquez moved adoption of Resolution 04-23, reflecting Frank Russell, State Street and Merrill Lynch as reserve transition managers. Seconded by Ms. Calvache and carried unanimously after the following vote:

Ayes: Romero, Vazquez, Moore, Wong and Calvache

Nays: None

10. Consideration of Retirement Plan amendment to provide for charging the Plan expenses against the Trust (for payment of investment management fees due and payable under the newly adopted asset allocation structure) (For final approval after adoption by the Board of Water and Power Commissioners).

Mr. Vellon explained item 10 represents a Plan amendment approved by the Board, by a majority vote. He added it was then referred to the Board of Commissioners for a Plan amendment to permit the cost of managing the Plan's investment program be charged against the Plan assets (as opposed to being paid by the Department as it used to be the case). He reported the Board of Commissioners approved this amendment and the third step is for the amendment to come before the Retirement Board for final adoption.

Attorney Wilkinson clarified it was the City Attorney's opinion this was basically a ministerial act, since the item has already been approved by the Board of Water & Power Commissioners. President Romero commented, typically amendments go to the Board of Commissioner for approval and back to the Retirement Board members, who then approve the resolution. He then inquired what was Attorney Wilkinson's position. Attorney Wilkinson responded it would create a problem if there was an attempt to amend the Commissioners' resolution or if the Retirement Board did not approve it. President Romero inquired if there is not a majority vote from the Retirement Board approving this item (even though it has been approved by the Board of Commissioners) would this put the Board back to the same issue of the specific Plan language stating a Board vote requires the majority of the quorum, while the City Attorney states it requires the majority of the entire Board. He further inquired if a vote was taken right now and the result was three to two, in Attorney Wilkinson's opinion, would it pass or not. Attorney Wilkinson responded it would require a majority vote of the entire Board and the appropriate thing would be to come back when there is a full Board. President Romero suggested to continue discussion and to deal with this issue, if and when it occurs. He inquired if any additional discussion by Board members was necessary.

Mr. Vazquez reiterated, as a Board, the resolution was passed to amend the Plan language and it was sent to the Board of Water and Power Commissioners to approve any changes to the Plan language, which they did. He added it should now be a done deal since the Retirement Board was the one to recommend changing the Plan language to begin with. Mr. Vazquez stated, in terms of what represents a quorum and majority vote, at the last meeting, it was requested the City Attorney's office provide the Board with an official legal opinion on this, which was just handed out by staff and had not been reviewed by the Board. He pointed out this item had already been previously deferred; he then moved the Board accept the resolution changes adopted by the Board of Water & Power Commissioners. Seconded by Mr. Moore and carried by majority vote as follows: [it was later determined the motion did not carry]

Ayes: Vazquez, Moore and Wong
Nays: Romero and Calvache

President Romero indicated his only concern is it would make more sense for the Board to actually do the transitions and see how well it does before passing on the fees to the Plan. He clarified, if he was going to vote against this item, it would not make sense for him to approve it the next time around. Ms. Calvache indicated she was never in favor of it either and she still had a lot of questions and did not feel the money should come out of the Plan. Mr. Vazquez explained, for the sake of the new Board members, the Plan used to pay under \$1 million in management fees and under the newly adopted asset structure this cost increases to between \$10 to \$15 million per year. He noted the expectation is the Plan will obtain better rates of returns and it would make more sense for the Plan to bear the cost.

Mr. Wong inquired who had the authority, under item 10, since Attorney Wilkinson is stating it is only a Retirement Board ministerial act. He also inquired if the item more appropriately belonged under the "received and filed" portion of the agenda, versus and

item to be voted on. Attorney Wilkinson responded the Plan still requires it be voted on, even though, at this point, it should be an automatic approval. President Romero reiterated, in his opinion, the motion passed, because the Plan states it requires a vote of the majority of the quorum, but the City Attorney indicates otherwise. Mr. Wong inquired if the action had been approved with the 3 to 2 vote. Attorney Wilkinson responded President Romero believes it did, but the City Attorney does not, and this could be discussed at length at a future meeting when it is placed as an agenda item.

Mr. Vazquez stated, to the extent the item did not pass, he would like it placed on the Next Board agenda. President Romero expressed he would like to have Mr. Wiggs attend the next meeting to discuss this issue. Mr. Vazquez suggested, after the Board has had a chance to read the opinion submitted by the City Attorney and if there is still a dispute, this should be placed on the aboard agenda also to get it resolved once and for all. Ms. Calvache explained to Mr. Wong how the difference in opinion of votes is causing a problem and is keeping the Board from getting any business done even though there is Board quorum.

The item was tabled for the next Board meeting.

11. Consideration of Pre-Tax Program for Service Credit Purchases under the DWP Plan. (Attorney Terry Rosales and Mr. Peter Lakatos will be in attendance to answer questions).

Mr. Vellon explained item 11, stating the Plan provides for employees to purchase service credits for Other Governmental, City and Department services. He reported the current Plan program permits payments only “after taxes” and the IRS permits pre-tax deductions under certain circumstances. He added the Board Attorneys (Mary Jo Curwen and Terry Rosales) have been involved in the establishment of a “pretax” option for the Department. Mr. Vellon indicated the resolution in the agenda packet needs to be referred to the Board of Commissioners for a Plan Amendment.

Ms. Calvache inquired if the item had been addressed with all of the unions. Mr. Vellon responded Mr. Lakatos reported, at a previous Board meeting and in writing, the Department did comply with the meet and confer process.

Mr. Moore moved adoption of Resolution 04-39. Seconded by Mr. Wong and carried unanimously after the following vote:

Ayes: Romero, Vazquez, Moore, Wong and Calvache

Nays: None

12. Consideration of contractual agreements extending the following Plan's Investment managers contracts:

- a) **TCW Asset Management Company (6 months extension due to possible delays in the implementation of the Plan's fixed income strategy).**
- b) **Standish Mellon Asset Management (6 months extension due to possible delays in the implementation of the Plan's fixed income strategy).**
- c) **The Boston Company Asset Management, LLC (6 months extension due to possible delays in the implementation of the Plan's domestic equity strategy).**

Mr. Vellon explained, with regards to item 12, historically three "non-discretion" investment managers had managed the Retirement Plan for many years. He added the Board was moving away from this and into a "full discretion" concept, with multiple managers and multiple asset classes. He stated the existing managers have been willing to extend their contracts, to allow the Board more time to implement the full asset allocation structure. Mr. Vellon explained, due to delays, the Board is now facing the expiration of the three contracts with TCW, Standish Mellon and The Boston Company (the old managers). He indicated, at the last meeting, it was suggested staff obtain an extension of six months, to allow the Board's full implementation of the whole asset allocation program. He reported the three managers have agreed to the extension of their contracts for six months beyond the December 2003 expiration.

Mr. Vazquez inquired of Mr. Emkin, where did he see the end of the light in terms of the schedule for hiring the additional portfolio managers. Mr. Emkin responded the publicly traded assets (portfolio managers) could be completed within six months, which ties in with the six months extension.

Ms. Calvache moved approval of Resolution 04-40. Seconded by Mr. Wong and carried unanimously after the following vote:

Ayes: Romero, Vazquez, Moore, Wong and Calvache
Nays: None

13. Consideration of authorization for the Plan Actuarial Company (The Segal Company) to assist the Department of Water and Power (Human Resources Office) relative to some actuarial calculations.

Mr. Vellon stated the Department, through the Human Resources office and City Attorney, are trying to explore options for the calculation of benefits for one member. He explained they have requested the opportunity to work with the Plan's actuaries, since they have both the census data on all of the active members and full knowledge of the Plan provisions. He stated, before they can work directly with the Human Resources office, the actuary typically requires Board authorization and approval.

President Romero inquired what specific calculations the actuaries were going to be working on. Mr. Vellon responded it would be calculations of "what if" scenarios in the event a person retires on a certain date or what would be the present value on

different scenarios. He added any costs would be the responsibility of the Department (Human Resource's office).

Mr. Moore inquired what was the Board accomplishing by approving the resolution, because it talks about calculations for one member. Mr. Vellon explained the City Attorney's office is exploring different options and scenarios in relationship to one specific member, in order to review the cost of every possible scenario before reaching their decision. Mr. Moore inquired if this was regarding a settlement discussion. Mr. Vellon responded in the affirmative.

Ms. Calvache moved approval of Resolution 04-41. Seconded By Mr. Moore and carried unanimously after the following vote:

Ayes: Romero, Vazquez, Moore, Wong and Calvache

Nays: None

14. Retirement Plan Manager's comments.

a) Legal Opinions

Mr. Vellon reported Mr. Benton had approached the Board on a Court Order issued in Nevada and the City Attorney took the position the Order was not binding on the Plan. He stated Mr. Benton ended up working with the City Attorney and went back to Court and put together all the necessary documentation so the Board can enforce an amended order. He added the City Attorney has approved the revised order and Plan staff are in the process of implementing it.

b) DWP Plan Newsletter for retirees (October 1, 2003 Edition).

Mr. Vellon reported the Board had already received a copy of the October 1, 2003 Newsletter for DWP retirees.

c) Update on Retirement Plan Remodeling

Mr. Vellon reported there has not been any progress on the remodeling of the Retirement office and a note was sent to Mr. Wiggs yesterday to see if he could help getting things in motion.

d) General Items

Fidelity Investment Report

Mr. Vellon commented there has been a lot of exposure in the press concerning what has been referred to as "market timing of mutual funds". He stated Fidelity happens to be one of the managers just hired by the Board and the Company name has been in the newspaper in connection with the investigation by the Attorney General in New York. Mr. Vellon informed the Board Fidelity representatives submitted a report letter explaining they have no "market timing" problems and they are cooperating with the investigation.

Merrill Lynch Performance Report (September)

Mr. Vellon stated Merrill Lynch submitted a performance report for the Russell 1000 indicating, for one month, they matched the Russell 1000 exactly.

Retirees Association Meeting (October 11, 2003)

Mr. Vellon reported there was a meeting of the Retirees Association on Saturday, October 11, and Mr. Moore was a guest speaker on behalf of the Retirement Plan. He expressed Mr. Moore did a tremendous job explaining how the Plan is moving from the previous investment process to what it is proposed and answered very difficult questions, regarding asset allocation, with remarkable clarity. President Romero thanked Mr. Moore on behalf of the Retirement Board for representing them so well.

President Romero, again, welcomed Commissioner Wong to the Retirement Board and the meeting was adjourned at 10:40 a.m.

JAVIER ROMERO
President

DUAMEL VELLON
Secretary

SILVIA TESSENEER
Recording Secretary