

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

MEETING – February 18, 2004

Present:

Javier Romero	President
Lilly Calvache	Vice President
Ron Vazquez	Chief Financial Officer
Dan Mirisola	Board Member
Michael Moore	Retiree Member
Gerard McCallum	Commissioner

Absent:

David H. Wiggs	General Manager
Duamel Vellon	Retirement Plan Manager

Others Present:

Frank Salas	Acting General Manager
Adriana Rubalcava	Acting Retirement Plan Manager
Tom Harrington	Consultant
Lesly Kuo	Investment Officer
Vikki Burks	Recording Secretary
Sarah Bernstein	PCA (Pension Consulting Alliance)
Mike Wilkinson	Deputy City Attorney
Donna Weisz Jones	Deputy City Attorney

The meeting was called to order at 10:09 a.m. after the Pledge of Allegiance.

[Pledge of Allegiance]

Ms. Rubalcava indicated there was a quorum of the Board.

President Romero introduced consent items number 1 and 2.

- 1. Approval of Minutes for the January 21, 2004 Regular Board Meeting.**

- 2. Termination from Monthly Rolls as of January 2004:
Retirement Resolution for January 2004.
Termination from the March 2004 Family Allowance Roll: Brooke Blaney – Attained 18 years of age.
Termination from the March 2004 Family Allowance Roll: Hunter Schmidt – Attained 18 years of age.**

Termination from the February 2004 Survivorship Roll: Mary L. McKnight - death.

Termination from the February 2004 Permanent Total Disability Roll: Edward Wade (reached aged 65, retired).

Appointment of Sylvia Simon as Trustee for James N. Keese (survivor of retiree, disabled adult). See item 12.

Mr. Moore suggested some minor corrections to the minutes of January 21, 2004. Ms. Calvache moved adoption of the above items 1 and 2 on consent. Seconded by Mr. Mirisola and carried unanimously by the following votes:

Ayes: Romero, Calvache, Vazquez, Mirisola, Moore, Salas

Nays: None

PUBLIC COMMENTS

President Romero recognized Mr. Frank Miramontes (Retiree).

Mr. Miramontes approached the podium. He began stating he was employed by the Department for 31 years from the Power Unit, and is representing over 8,000 participants of the Plan. He expressed concerns about the actions of some members of the Board. He emphasized Board members have the same fiduciary responsibility as the Plan Manager, and none have any more authority than the other. Mr. Miramontes noted improper action was utilized when Department management initiated the removal of the Plan Manager (Mr. Vellon), as opposed to a Board decision. He added appointing a temporary acting Plan Manager (Ms. Rubalcava), with no financial and pension experience giving her responsibility for a multi-billion dollar fund, is unconscionable. Mr. Miramontes requested the Board live up to its fiduciary responsibility and participate in decisions relative to Plan participants. He also noted a Board member was denied access to Plan information, as if the Retirement Office belongs to some of the Managers of the Board, as opposed to equal access to all Board members. Mr. Miramontes indicated he learned one of the Board members was told by another Board member/Manager who he could or could not talk to. He added unless this particular person was given some type of a legal document telling him to whom he can or cannot talk to, it shouldn't have happened. He further stated the action by the Manager, usurping the responsibility of the Board, is unconscionable and illegal. Mr. Miramontes also requested Ms. Rubalcava resign from her position to prevent anything serious from happening to the funds in the Retirement system, due to her inexperience.

Mr. Miramontes noted there should be discussion about the removal of Mr. Vellon, and urged the full Board to participate in the decision-making, and not follow a unilateral decision made by Department management. He recognized Mr. Vellon was a tight-fisted, no nonsense manager which did not set with many people. He also noted Mr. Vellon is not beholden to any money managers, special groups, or any managers, but only to the Plan and the Board. He urged that these characteristics should be considered seriously prior to any individual getting removed. He then commented about the cost of hiring consultant(s) to assist the current acting Plan Manager in managing

the Retirement Office, and who should pay for the additional expense. He insisted the Retirement Fund should not incur this cost. Mr. Miramontes retired to the audience.

Ms. Rubalcava acknowledged Commissioner McCallum's arrival to the Board.

President Romero recognized Mr. Don McPoland (Retiree).

Mr. McPoland approached the podium and indicated there will be a forthcoming Walt Disney Board meeting the following month. He urged the DWP Retirement Board to vote against the current Walt Disney Board, especially Michael Eisner. Mr. McPoland retired to the audience.

President Romero recognized Mr. Dave Huff (active employee).

Mr. Huff approached the podium and expressed his concern about the Board's non-involvement in the decision-making process for staffing the Retirement Plan. He stated employee participation in voting for Board members, as representatives, was pointless if elected Board members were not involved in the decision-making process; hence, there is no purpose of having a Board. Mr. Huff also emphasized his concern about issues raised by Mr. Miramontes.

3. **Special Board Minutes of January 15, 2004 and January 27, 2004.**
4. **Report of Payment Authorizations as of January 2004.**
5. **Security Transactions for the month of December 31, 2003 and January 31, 2004.**
6. **Short Term Investments as of January 31, 2004.**
7. **Report on Long Term Investment as of December 31, 2003.**
8. **Distribution of Securities by type and class as of December 31 2003.**
9. **Statement of Investments owned as of December 31, 2003.**
10. **Equity Investments as of December 31, 2003.**
11. **Notice of Deaths as of January 2004.**

12. **Acceptance of Mr. Edward Wade's Retirement effective February 1, 2004, due to staff oversight in terminating his PTD benefits and starting his normal Retirement process (See Item 2).**
13. **Memo by the Office of the City Attorney regarding the development of a joint strategy between Los Angeles Pension Plans, for maximizing the recovery of funds owed to the City of L.A. by WorldCom, Inc.**

Mr. Moore commented item 3 should be included in item 1 as they are all minutes. President Romero responded in the affirmative, adding all minutes should be included in the same consent item. Mr. Moore wished to make some corrections to the minutes for item 3. President Romero suggested, for the sake of time, to have these minutes with Mr. Moore's corrections placed on the next Board meeting agenda. Mr. Moore agreed.

Mr. Vazquez inquired about the Plan's status with respect to the suit against WorldCom, Inc. on item 13. Attorney Weisz Jones responded the Plan is a member of the class for

the stocks the Plan owns that fit in the class period. This Plan is included in the Class Action. Ms. Calvache motioned to approve item 4 through 13. Seconded by Mr. Vazquez and carried unanimously by the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas
Nays: None

14. Consideration of legal opinion by outside counsel (Robert Klausner) relative to the majority vote requirement for official Retirement Board of Administration Actions.

Mr. Vazquez motioned to approve item 14. Seconded by Commissioner McCallum and carried unanimously by the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas
Nays: None

Attorney Weisz Jones noted the Fiduciary Council's advice to the Board concurred with the advice of the City Attorneys Office.

15. Consideration of:

- a) Report by the Plan Manager on the production of the Plan's tax forms 1099R for calendar year 2003.**
- b) Draft letter for the DWP retirees relative to tax form 1099R for calendar year 2003 and related topics.**
- c) Possible amendment to some forms 1099R based on report by PriceWaterhouseCooper.**

Mr. Moore suggested discussing items 15a, b, and c separately. He commented there was grave concern by the Board and retirees regarding item 15a, due to retirees' income being artificially inflated by 8% by the inclusion of the 13th check in the 1099R, rather than the 12 checks that would normally represent the annual pension. Mr. Moore added the inflated pension may put a number of retirees in a tax withholding penalty situation, while others could potentially lose social programs such as college grants or lifeline rates, etc. He also indicated the Board and retirees were not notified of this problem. As a result, retirees were unable to change their tax withholdings prior to year-end.

Mr. Moore requested the Plan Manager, Mr. Duamel Vellon, address the concerns of the Board from this perspective. He noted Mr. Vellon had not adequately answered the questions, accepted no responsibility and tried to pass the responsibility onto his staff for the problems, which occurred on the 1099Rs. Mr. Moore indicated he would address his concerns more specifically in the executive closed session.

President Romero stated he had been in contact with Mr. Vellon on the issues Mr. Moore presented. He further noted Mr. Vellon had attempted to provide the Board a complete report, but was unable to obtain access to e-mails, or other media.

President Romero referenced page 15a.2 (paragraph 2), where it states “...**member Moore discovered the DWP Plan had violated Federal laws in 2000 by issuing 13 payments to the retirees in 1999, while reporting the 13th payment in 2000 “purposely”, without consultation with the Attorneys or the IRS...**” President Romero noted if Board members are aware of a problem and do not question it, then they are just as guilty. He further noted the Board’s legal liability is at stake should the above statement be true. Attorney Weisz Jones responded the City Attorney’s Office will report back to the Board at a later time. Mr. Moore clarified he did not discover the Plan had violated Federal laws, but did find 1099Rs issued in 2000 reflected 12 payments instead of 13 payments. This was done by then Plan Manager, Mr. Richard Goss, to avoid any potential problems involving the year 2000 rollover (Y2K). He has not made any judgment with respect to whether or not it was done legally.

Mr. Vazquez then stated he could not find an answer to question #4 (Why did he (Mr. Vellon) not inform the full Board?). Mr. Vellon had stated the answer to question #4 was addressed in the answer to question #1. Mr. Vazquez stated he required more specificity from Mr. Vellon. President Romero responded that Mr. Vellon should be given access to his resources in order to clarify the matter. Mr. Moore strongly disagreed with President Romero’s request stating the questions posed to Mr. Vellon are straightforward. There is no reason for him to have access to employees’ e-mails in order for him to answer the questions. Mr. Moore emphasized the questions asked what information Mr. Vellon acted upon, when he made the decision; and this is something he should be able to determine based on his own memory. President Romero commented e-mail is public information. He further added there should not be an issue with allowing Mr. Vellon proper tools to provide a more informed report. President Romero disagreed with Mr. Moore and stated Mr. Vellon is clearly being scrutinized on this issue, and he needs all the resources to make the best possible report.

President Romero inquired, regarding item 15b, if there will be amended 1099Rs sent to retirees. Mr. Vazquez responded, referring to a notice to retirees dated February 18, 2004. According to PriceWaterhouseCooper’s research, the Board needs to send amended 1099Rs, due to an error, which did not include all excludable amounts in determining taxable income. This affected approximately 5,500 retirees who made after-tax contributions while employed. The amounts involved for any particular retiree would not be substantial. Mr. Vazquez noted the second problem involved retirees’ first pension checks for 2004, and was the result of a computer error. The excludable amount for certain retirees was not given and this affects about 1,800 retirees. Mr. Vazquez informed the Board, Information Technology Services (ITS) and the Retirement Office are aware of this error and are in the process of correcting it so the second pension checks for 2004 will reflect the appropriate amount. He recommended, after corrections were made, adjustments for the third pension checks should compensate for the error in the first pension checks.

Ms. Calvache stated she was not aware of the aforementioned letter, and expressed concerns about correspondence sent without her knowledge, and she had noted her concerns in the past. She then inquired who made the draft, or if the letter was a draft, or if it has been sent out. Mr. Vazquez responded it has not gone out, and it is presented this morning to the Board for consideration. He further stated he consulted

with PriceWaterhouseCooper as to whether we needed to amend the 1099Rs, and believed he, at least, discussed it with President Romero. Mr. Vazquez added he asked Ms. Cecelia Weldon, Assistant General Manager and Chief Information Officer of ITS, and Mr. Conney Williams, the Retirement Section Supervisor of the Retirement Plan Office, to pinpoint the problems and effects these could have, and the time frame in which it can be resolved. As a result, he drafted this letter for consideration by the Board. Mr. Moore added this is something he had tried to put on the agenda last week, and there is a need to notify the retirees as soon as possible because they are in process of filing taxes, and they do not know their 1099Rs are incorrect. He noted retirees will have to re-file their taxes, or revisit their tax consultant if they used one, and this would be a major problem for the retirees. Ms. Calvache stated she understands the situation, but simply wanted to be notified of any actions sent to the Board for approval. President Romero inquired if the March 2004 pension checks are assured of the necessary adjustments. Mr. Vazquez requested Ms. Weldon and Mr. Williams for an update on the above concerns.

President Romero recognized Ms. Weldon and Mr. Williams.

Ms. Weldon and Mr. Williams approached the podium. Ms. Weldon assured the Board the second check will be accurate and adjustments will be made on the third checks. She added the problem has been identified and remedied. Mr. Williams stated, relative to the incorrect 1099Rs, there may be as many as 7,000 retirees who were affected, due to some individuals who were in other tax codes, and he expects to have confirmation on the number of affected individuals sometime today. He added, with regards to individuals who did not receive the excludable amount on their recent retirement check, there may be more than 1,900 retirees affected. Ms. Weldon emphasized, relative to the 5,400 retirees impacted by the 1099Rs, she does not believe the additional number will total 7,000. There may be an additional 500, but there was some overlap included, and the majority was fixed, including the original 5,400. She added there was an additional 400 employees who fell under a different tax code, but there was some overlap, so it's not cumulative. Ms. Weldon also noted 135 employees, who retired between January 2003 and November 2003 were impacted, as well as an additional 5 employees who retired in December 2003; so about 140 more needed correction. Ms. Weldon and Mr. Williams then retired to the audience.

Mr. Moore suggested the last line above the last paragraph on the notice dated February 18, 2004, where it reads, "...while the second problem **only affects** some of you" should be changed to "...**affects only** some of you." Mr. Moore made a motion to send out the letter. Seconded by Mr. Salas and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas
Nays: None

Mr. Vazquez suggested the Retirement Office staff send the notice out as soon as possible, upon completion of recommended changes, as indicated by Mr. Moore.

President Romero inquired about item 15c. Mr. Vazquez responded that upon learning

the 1099Rs did not reflect the excludable amount for the last pay period, he asked PriceWaterhouseCooper for advice, and they recommended amending the 1099Rs.

Some Board members inquired about the letter on page 15b.3, also dated February 18, 2004. Mr. Moore clarified the purpose of this letter is to affirm retiree's actual 2003 income is 12th/13th of the amount shown on the 2003 1099Rs, and retiree's may present this letter to the IRS or other agencies for social programs such as lifeline, etc. if they are affected as a result of the incorrect 1099Rs.

Mr. Vazquez motioned to approve resolution 04-79 of the above item. Seconded by Mr. Salas and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas
Nays: None

Mr. Moore requested clarification from the Board, stating he and Mr. Vazquez wanted item 15c to be placed on last week's agenda, and it was his understanding when any Board member wants to place an item on agenda, it would be done; however, his request was denied. President Romero said he was unaware of the denial.

16. Consideration of Cost of Living Adjustment (COLA) for eligible retirees effective July 1, 2004.

Mr. Mirisola asked the Plan Manager to explain how the COLA was calculated, noting there was a dispute on previous calculations, and it went to the City Attorney's Office. Mr. Harrington, Plan Consultant, responded this resolution is only to acknowledge the Consumer Price Index (CPI) was 2.6%. Many retirees will actually receive a 3% increase by drawing from the COLA bank. Mr. Vazquez added the calculation of 2.6% was verified, as being accurate by internal audit staff, and there was an enclosed report indicating it.

Commissioner McCallum moved resolution 04-80 of the above item. Seconded by Mr. Mirisola and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas
Nays: None

17. Consideration of Plan Investment Manager's failed trade relative to the sale October 23, 2003, of a bond not held in Plan Portfolio (Ford Motor Cusip. No. 345370BJ8) and subsequent sale of a DWP owned bond (Ford Motor Cusip. No. 345370BV1) on October 30, 2003, using the lower price of October 23, 2003.

President Romero inquired as to the status of Trust Company of the West's (TCW's) response, and if there was a need to forward the matter to the City Attorney's Office. Ms. Kuo responded TCW is not compensating the Plan. Attorney Weisz Jones emphasized TCW's response said "...we will provide you with a more detailed response to your February 2 letter". She recommended waiting for TCW's response prior to

sending the case to the City Attorney's Office, adding she will report to the Board at the next meeting.

Mr. Moore asked if TCW fails to compensate the Plan, would the City Attorney initiate litigation? Attorney Weisz Jones responded the matter has not been reviewed, but the Board may turn it over to the City Attorney. If there is a need for outside consultation, as this is very specialized, the Board will be notified. She added there is no urgency and no statute of limitation problem, although the Board should obtain all the facts prior to taking any actions. Mr. Mirisola suggested the item be placed on the next Board meeting.

18. Consideration of Plan Consultant, Pension Consulting Alliance (PCA), recommendations relative to funding the Plan's newly hired International Managers directly with cash, rather than through a transition services provider.

President Romero recognized Ms. Sara Bernstein, Principal of PCA.

Ms. Bernstein approached the Board table. Ms. Bernstein expressed PCA continues to recommend the Board fund the three International Managers from cash accounts, because cash accounts do not have a portfolio timeline on the sell side to build the three new portfolios (adding each manager can build an individual portfolio in three days, whereas transitional managers have a couple of extra days delay).

Ms. Kuo inquired clarification on PCA's recommendation of funding Managers to take place during the week prior to month-end. President Romero inquired would there be negative impacts against the Plan if the funding date were made public. He suggested the Plan may be placed in a disadvantageous position. Ms. Bernstein responded in the affirmative. President Romero suggested Plan staff be responsible for deciding when to fund the Managers.

Mr. Mirisola requested the City Attorney's Office provide samples of confidentiality statements relative to President Romero's concerns, so the Board may adapt them to its policy. He further requested Plan staff collaborate with the City Attorney's Office to develop a policy for future adoption. President Romero expressed, for the record, only the Plan Manager and he were aware of the dates on past transitions.

Mr. Mirisola moved resolution 04-81 of the above item, in accordance with President Romero's recommended changes, by deleting the paragraph "BE IT FURTHER RESOLVED, such transactions occur during the week prior to month end, in accordance with the Plan consultant's recommendation of February 3, 2004." Seconded by Ms. Calvache and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas
Nays: None

Mr. Vazquez commented on receiving a report from fiduciary counsel on the need to

report 13 months of payment on the 1099Rs, relative to item 15b. Attorney Weisz Jones recommended it should be placed on the agenda for the next Board meeting.

19. Plan consultant, PCA, update on status of Request For Information (RFI) on Bank Custodian services.

Ms. Bernstein requested additional information from Plan staff and the current custodian, BNY, in order to send out RFIs. She further recommended sending RFIs to five leading custodial services, including: Bank of New York (BNY), Standish Mellon, JP Morgan-Chase, Northern Trust, and State Street. President Romero recommended the matter be placed on the next agenda.

20. Consideration of fee proposal submitted by Bank of New York Asset Management Small Capitalization Account.

President Romero indicated BNY did not negotiate a lower fee because the initial Request for Proposal (RFP) was for \$125 million, whereas the actual fund was \$90 million. However their proposed fee schedule was lower than other money managers. He added, however, as of February 17, 2004, BNY reduced the fee to 64 basis points and, as the fund grows, it will be cheaper. Ms. Kuo responded in the affirmative, adding if the Plan grows larger, the fee will be reduced to 62 or 63 basis points. President Romero approved, and the Board concurred. No action was taken, as President Romero indicated it was within the parameter of previous Board approval.

21. Consideration of changes to the Plan's Statement of Investment Goals and Guidelines (IGG) to:

- a) **allow for Fidelity management's performance to be benchmarked against the EAFE (commingled) index (versus using the EAFE + Canada index).**
- b) **correct some conflicting language to make the Statement of IGG consistent.**

Ms. Kuo stated PCA recommended allowing Fidelity to use EAFE, while Invesco and Delaware use EAFE + Canada as benchmarks because these are individual accounts and can be custom made. Ms. Bernstein responded in the affirmative, recommending Plan staff work with Fidelity to develop a Canada commingled fund.

Mr. Moore referenced, page 21.46, and stated Fidelity proposed managing an EAFE commingled fund, and a separate account for a Canada portfolio, without additional fees, and asked Ms. Bernstein why this option was not recommended by PCA. Ms. Bernstein responded it was a possible option; however, there will be less diversification on such a small allocation.

Mr. Moore moved resolution 04-82 of the above item for approval. Seconded by Mr. Salas and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas

Nays: None

22. Consideration of retroactive payment of temporary disability benefits for Ms. Carmen Gutierrez, due to error in calculation of her benefits during the period January 27, 2003 to July 18, 2003.

Ms. Calvache inquired if the calculations were done correctly and reviewed by the Plan Manager. Ms. Rubalcava responded she had conferred with staff and was confident the calculations were correct.

Mr. Vazquez moved resolution 04-83 of the above item. Seconded by Ms. Calvache and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas

Nays: None

23. Consideration of legal opinion concerning the rightful beneficiary of Ms. Loretta DeHoff's death benefits.

Mr. Salas moved resolution 04-84 of the above item. Seconded by Commissioner McCallum and carried unanimously after the following votes:

Ayes: Calvache, Romero, Vazquez, Mirisola, Moore, McCallum, Salas

Nays: None

24. Consideration of refund of contributions incorrectly deducted over the years due to misstatement of age - Daniel Bitterman.

President Romero inquired if there was benefit owed to Mr. Bitterman. He continued to state, if there was benefit owed, he does not want Mr. Bitterman waiting for another month. Attorney Weisz Jones suggested the Board could authorize the Plan Manager to recalculate it, ensure it was correct, approve it, and then pay the benefit; then report to the Board as received and file, so it can be expedited. President Romero inquired what is the estimated time the payment could be processed. Mr. Harrington emphasized it could be resolved in one or two days. Ms. Rubalcava emphasized two days. Ms. Calvache inquired if it was verified the check has not been cut. Ms. Rubalcava responded the check couldn't be sent, unless approved by the Board; so it can be retrieved, at any stage, to stop the process. Attorney Weisz Jones reiterated the Board could authorize the Plan Manager to act accordingly, and report back, so there will not be delays on the check issuance. President Romero concurred, provided the Board receives a report. Mr. McCallum suggested the item be placed on receive and file next month, and the Board concurred.

Item 24 was tabled.

25. Discussion of potential Request for Proposal (RFP) for a Plan External Auditor.

Mr. Mirisola suggested there should be an Investment audit, noting Mr. Vazquez's staff couldn't do this particular audit, and Mr. Vellon had wanted an audit since he was commissioned. He also suggested an audit of the Retirement benefit, citing there were three or four incorrect employees' retirement calculations due to incorrect information. Mr. Mirisola also noted concerns of Retirement Plan files, suggesting the files can be scanned and saved at another location as back up in the event of an emergency. President Romero concurred with the audit, with an emphasis on investments due to the large sum of money involved. He added, however, it should be at the discretion of Mr. Vellon's recommendation as to what should be audited. Mr. Moore stated he and other Board members had requested an external audit due to the major restructuring of the portfolio. However, the scope of an audit should be defined, so as to prevent overlapping with existing audits. Mr. Moore continued based on the information requested, perhaps there should be a management audit of the pension system. He added he would support such an audit, noting a management audit would include, among other things, the adequacy of the management report, procedures employed in performing a business, and the training, etc. He further stated the Board needs to scope out what the audit would entail, and this has not been done. Ms. Rubalcava suggested Plan staff provide a scope of work, at next meeting, to Board members for consideration. President Romero disagreed, citing his greater concern is the investment transactions, noting these may not be the area of expertise of Plan staff. Discussion ensued. Mr. Moore added, in the wake of the mutual fund scandals and soft dollars, there are potential direct brokerage activities that may need to be investigated. Discussion continued. Ms. Bernstein stated PCA could provide information to Plan staff to develop an RFI. Attorney Weisz Jones recommended the Board direct Plan staff to collaborate with PCA. PCA should work with Plan staff, and all information obtained should come to the Board as a whole; not to individual Board members. No action was taken, but staff agreed to discuss the matter further with PCA and come back to the Board with more information.

26. Discussion and possible action regarding current, pending, past and amended manager and custodian contracts.

Mr. Mirisola stated he requested Mr. Vellon to provide copies of contracts, minutes and tape recordings of a meeting. He added he was informed he could pay fifteen cents, or six cents per page for documents requested. Mr. Mirisola expressed Board members should not be charged any fees when requesting documents for meetings they attended. He also stated Management instructed Plan staff not to speak with him. Mr. Mirisola explained his request for the above information was due to his dismay of hiring Merrill Lynch, citing Merrill did not meet the minimum qualifications on the RFP, and Mr. Wiggs had pressured the Board to select Merrill Lynch. He also stated contract amendments should be discussed and approved by the Board, citing that President Romero arbitrarily approved an amendment to reinstate an omission in the contract, relative to subrogation issues, which was included in the RFP, without Board discussion. Mr. Mirisola further added the Board is responsible for contract negotiations, not Mr. Vellon or individual Board members. He requested he be included in everything. He clarified micromanaging is not his intention. He further stated he still has not received the information previously requested.

Ms. Rubalcava assured Mr. Mirisola his requests will be delivered upon him providing the dates of the meetings. Attorney Weisz Jones clarified the minutes should be in the agenda packages, especially when an individual Board member requests something – it is no different than the public’s request for information. And she stated time should be allowed for Plan staff to gather the information, as they have other responsibilities.

President Romero clarified when Board approved the contract, based on a fee of 64 basis points, it then became an administrative issue. Anything below 64 basis points, the Plan Manager can negotiate to benefit the Plan. He does not have to notify Board members. If, for any reason, the basis point is higher than what the Board approved, then it would have to return to the Board, because it was not what the Board agreed upon. President Romero emphasized Mr. Vellon chose to inform him, as President of the Board, of any changes, and every month, there’s an update on the Manager’s comments, as to the status of the contracts. However, this was not done last month, due to Mr. Vellon’s absence. He added the negotiated contracts are within the accepted range of the Board’s prior approval.

Mr. Moore concurred with Mr. Mirisola’s comments, relative to President Romero’s involvement in the contract negotiations, if it was true, stating one Board member should not have more authority than another. The Plan Manager cannot be held accountable, if individual Board members are involved. Mr. Moore indicated he had inquired of the City Attorney and was advised, typically, once the Board took action, staff will then take over, and the matter does not return to the Board. He further added he does not want the Board to create more hurdles, and slow the process even more, but emphasized the Board must deal with some of the issues, noting not only in terms of compensation, but also concerns of soft dollars. President Romero emphasized the Board has a standard “boiler plate” contract and guidelines presented to the Board. He further stated if the Money Manager has a change in the contract language, it goes to the Legal Attorney for approval. If there were insurance issues, it goes to Risk Management for approval. He noted the contracts have been reviewed prior to him signing. It is within the parameter of what the Board had discussed. There was further discussion.

Mr. Vazquez recommended items placed on the agenda include documentation, relative to the subject matter, so it may be reviewed in advance in order to have a more productive discussion. He recommended they discontinue discussion at this point. Attorney Weisz Jones added Plan staff would have an opportunity to make available existing policies, if any, so they can provide a complete Board package for Board members to make a more informed decision.

Mr. Mirisola emphasized he will abide by existing policies; however, he should at least be kept abreast of changes. Mr. Moore noted there were three new Board members who have not seen the contracts, and they should be given the opportunity to analyze them. President Romero responded in the affirmative. The Board concurred the item would be placed on next agenda.

27. Discussion and possible action, including possible draft policy language, regarding Plan Manager communications to Board members including e-

mail, telephone, memorandum and other means of relaying information to and among Board members.

Attorney Weisz Jones suggested providing the Board, at next meeting, specific guidance on what is permissible with the Brown Act, and to make policies based on that, because the Board may not be violating the Brown Act technically, but may be violating the "Spirit." Mr. Mirisola added information should be directed to all Board members, and not separately to individual Board members, in order to maintain consistency. Further discussion ensued.

28. Discussion and possible action regarding the terms and progress of the transition of assets to new Money Managers.

Mr. Mirisola inquired as to the status of the above item. Mr. Kuo responded benchmark issues with Fidelity had already been discussed (item 21). Invesco is resolving Risk Management insurance issues. Delaware was halted. The Plan recently had a transition for the Large Cap Managers in the amount of \$940 million, done on February 11th and the settlement date was February 17th. Mr. Mirisola inquired when Delaware could move forward with the transition. Ms. Kuo responded the case must be placed on the next agenda for the Board to decide whether the Board still wants to continue the relationship with Delaware, or choose a new money manager. Delaware is adhering to British regulations, and they are very different from U.S. laws. Attorney Weisz Jones stated the Board needs to revisit the matter, citing Delaware did not meet the basic requirement in the RFP. Mr. Vazquez expressed, based on Ms. Kuo's comments, there may not be a contract with Delaware. He requested that PCA recommend a substitute, so the Board may consider it at the next meeting. Ms. Kuo suggested the Board might want to examine the reasons for the problems with Delaware to prevent any future reoccurrence, and to assure the selected back up manager will comply with U.S. regulations. Discussion ensued. Ms. Bernstein recommended Plan staff and attorneys apprise PCA what the problems were, so PCA can make appropriate recommendations, and avoid encountering similar situations.

Mr. Moore requested Plan staff develop a new schedule, working in conjunction with PCA, to finish the portfolio manager selection process; noting it has been delayed for a long time.

29. Retirement Plan Manager's comments.

- a) **Legal Opinions.**
- b) **DWP Plan Newsletter for retirees (February 1, 2004 Edition).**

The Acting Plan Manager had no comments.

30. Consideration of Amendment to Contract No. 126 with Plan's Consultant, PCA.

President Romero stated PCA claimed their workload is greater than what was originally stated on the RFP, and PCA will continue to do everything with the exception of real estate and alternative investments, but would do the "education" for real estate and

alternative investments.

Mr. Vazquez moved resolution 04-86 of the above item. Seconded by Mr. Moore.

Mr. Mirisola noted the original RFP included real estate, and inquired of the change in the contract. Ms. Bernstein responded she was not with PCA at the time the contract was signed, and is unaware of this matter, but will report back at a later time. Mr. Mirisola expressed it is disingenuous to renegotiate the contract, and requested the City Attorney review the contract and the RFP to determine if there was an agreement to fulfill those duties. Attorney Weisz Jones noted the Board had discussed and approved an amendment to the contract, and further action is futile. Any contractor, or the Board, can give advance notice to end a partnership, without providing an explanation. She also noted PCA had discussions with the Board, believing the contract was not as broad as the Board believed it to be, and the Board decided to keep PCA; therefore, the Board has exercised due diligence. President Romero agreed, adding that for the sake of keeping the Plan moving and investing, the Board needs to go forward, as the matter had already been discussed.

The majority passed the above item after the following votes:

Ayes: Calvache, Romero, Vazquez, Moore, McCallum, Salas
Nays: Mirisola

31. Future agenda items.

None noted except as discussed earlier in the meeting.

32. Closed session pursuant to Government Code 54957 regarding the Plan Administrator.

Attorney Daniel Lowenthal proceeded to explain the background of the above item.

No action was taken.

The Board meeting was adjourned at 12:25 p.m.

JAVIER ROMERO
President

ADRIANA RUBALCAVA
Secretary

Vikki Burks
Recording Secretary