

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

MINUTES – JULY 29, 2003

Present:

Javier Romero	President
Dan Mirisola	Vice-President
Lilly Calvache	Board Member
David H. Wiggs	General Manager
Ron Vazquez	Board Member

Absent:

Anne E. Cho	Commissioner
Michael Moore	Board Member

Others Present:

Duamel Vellon	Retirement Plan Manager
Sangeeta Bhatia	Assistant Retirement Plan Manager
Ellen Shimamoto	Assistant Retirement Plan Manager
Silvia Tesseneer	Recording Secretary
Mike Wilkinson	Deputy City Attorney
Allan Emkin	Pension Consulting Alliance (PCA)

President Romero called the meeting to order at 10:07 a.m. after the Pledge of Allegiance.

[Pledge of Allegiance]

Mr. Vellon indicated there was quorum of the Board present.

- 1. Election of President, First Vice President, designation of the remainder of the Board members as Vice Presidents, appointment of Board members to various Board Committees.**
 - a) Investment Committee**
 - b) Benefits Committee**

Mr. Vellon introduced item 1 as the election of the President and First Vice President of the Retirement Board. President Romero inquired if there was a motion for President. Mr. Mirisola nominated Mr. Romero for President. Seconded by Mr. Vazquez. There being no additional nominations Mr. Mirisola's motion carried unanimously after the following vote:

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

President Romero inquired if there was a motion for First Vice President. Mr. Wiggs nominated Ms. Calvache. Seconded by Mr. Mirisola there being no additional nominations Mr. Wigg's motion carried unanimously after the following vote:

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

President Romero stated, with regards to the Investment and Benefit Committees, he would like them to be kept as these stand and would like the Investment Committee to be a committee of whole. He expressed it was important that every member of the Board be a contributing member as to where the Plan is going in the future. President Romero indicated he would like to be the Board's representative on the Deferred Compensation Board effective October 1st as he could not commit to anything prior to this date. He thanked Mr. Mirisola for his three years of service to Deferred Compensation Board.

PUBLIC COMMENTS

Board President Romero recognized Mr. Donald Benton (Retiree).

Mr. Benton approached the podium and began by expressing he regretted having to come before the Retirement Board because the matter should have already been resolved. He noted, in item 29 of the Board packet, there was a legal memorandum misquoting Section E-3 of the Retirement Plan. Mr. Benton provided each of the Board members with a copy of Section E-3 and the California Family Code Statute 2073. He indicated, on August 23rd a Court Order was served to the Retirement Board staff, received on May 27th and acknowledged to him in writing of its receipt on May 29th. Mr. Benton stated the California Family Code Statute 2073 was included in the document, per the exemplar provided by the Retirement staff. He added this was also the same statute the City's Employee Association requires in their orders, presumably a requirement from the City Attorney. Mr. Benton stated the legal document had four statutes, which were required by the Board's exemplar and the City Employee Retirement Plan as well.

Mr. Benton reported the Order, and Statute 2073, specifically state the Benefit Plan has a 30-day Stay to object to anything in the Order, and if so, it must notify the Court. He added the law also provides a 60-day extension if additional time is needed. Mr. Benton indicated the Board took no action and neither he nor the Court was notified of a problem. He stated he contacted staff before the 30 days passed to inquire what was happening, and after the 30 days had passed, a Legal opinion was issued and he felt according to California Law, the Board is now subject to contempt due to failure to act on an Order given by the Court. Mr. Benton argued the legal memorandum was incorrect in requiring the Order must be a California Court Order for the Plan to comply. He added the Family Code and the City Employee's Retirement Plan state California agencies will recognize an out of state Court as equal to a California Court. He further argued the legal memorandum also states the Plan was not joined and the Order says the Plan was joined.

Mr. Benton indicated he made a request to four different staff members to place this matter as an item on the agenda, because the Board needed to be aware of it in order to make a decision, but the request was refused. He stated the item contains confidential information

he believes should be handled under executive session, since litigation is still pending and the Court has reserved jurisdiction on the matter.

Mr. Benton requested the Retirement Board resolve the issue at this meeting, because if it continued, he has no other option but to request the Court impose sanctions on the Retirement Board for contempt and for refusing an order which would make them subject to fines and penalties. He stated he traveled a long distance to appear before the Retirement Board and reiterated the matter should have already been resolved.

President Romero thanked Mr. Benton and he retired to the audience.

President Romero inquired if Mr. Benton's issue could be discussed. Attorney Wilkinson expressed it would not be appropriate to discuss this issue because it was a public comment, but the Board may opt to put it on the agenda for a future meeting. Attorney Wilkinson added he and Mr. Benton had a very different view of the law and the facts on this matter. President Romero expressed he would personally like to look further into this matter and confer with Attorney Wilkinson before placing it as an agenda item.

President Romero acknowledged Mr. Emkin of PCA (Pension Consulting Alliance) needed to leave, consequently, he ruled the Board discuss the items in the agenda he was associated with. Mr. Vellon indicated the only agenda item, which involved Mr. Emkin, was item 27.

President Romero indicated for the record, he requested information from PCA on ETFs but he was not sure if it was appropriate to discuss it at this time. Attorney Wilkinson responded if it was not an agenda item it could not be discussed.

(See additional public comments by Mr. Benton on the last page of these minutes.)

27. Selection of International Equity Investment Managers for interview (within the Developed Markets segment and within the various investment manager style identified).

Mr. Vellon reported the Board had a meeting on July 10, wherein PCA's recommendation, to focus on International managers, was adopted. He stated a value, a growth manager and a core manager would be selected within the International developed markets segment. Mr. Vellon stated, at the July 10th meeting, the Board decided it would be better to wait until the July 29th meeting to identify the individuals who would be selected for interviews. He stated the only decision the Board needed to make today was which names to add to the draft resolution for interview.

Mr. Emkin noted PCA had provided the Board with the same type of background material as previously done, including the highlight of firms (based upon their representations) who met the criteria established by the Board.

Mr. Mirisola inquired if there were changes on the list due to companies who now report they no longer have caveats. Mr. Emkin responded the only firm who removed their caveat, due to insurance requirements, was Fidelity, which was done telephonically. President Romero stated, for the record, he had requested Mr. Emkin contact Fidelity. He

stated, when looking at how high Fidelity was ranked, and noting their caveat, he contacted Mr. Emkin to find out if the caveat was a stickler or if the firm was open to meeting the Board's requirements, because if not, there would be no sense in interviewing them.

President Romero clarified there were three different International Investment manager groups and the Board needed to decide how many firms from each group would be interviewed. Mr. Vazquez commented he was not at the last Board meeting wherein a resolution was adopted and PCA recommended either doing separate interviews of each kind or 15 generic, and inquired what was decided. President Romero responded it made more sense to the Board to divide the managers into three different groups and interview each group and then make their selections. Mr. Emkin added the objective was to conduct the interviews in one long day as opposed to two days.

Mr. Mirisola inquired if the Board decided to group Growth at a reasonable price with Core. Mr. Emkin responded in the affirmative, adding this is why they are next to each other. He stated the first group was the Core managers, the second group GARP (a hybrid of growth/core styles), the third group Growth and the last group Value. He noted it was up to the Board to decide how many to interview, but PCA generally urges that fewer is better than more, because the more firms there are, the more difficult it is to distinguish between the candidates.

Mr. Vellon inquired, for each group, how many firms met all the criteria in terms of numbers and no caveats. Mr. Emkin responded Core had three, Value had four and Growth five. Mr. Vellon commented this included Fidelity who now meets the criteria. Mr. Emkin stated if the Board combines the Core and the GARP, there would be six, which gives the Board plenty of choices.

Mr. Mirisola inquired about Mr. Emkin's perception of how closely correlated the companies were between Core and the GARP. Mr. Emkin referred to the color coded chart provided by PCA and explained how it allowed one to compare the managers. President Romero suggested the Board not put too much weighting on the chart because tomorrow the correlation could change. He suggested the Board instead concentrate on which firms are the best managers, based on the interviews and then utilize the correlation. Mr. Vazquez inquired if the correlation could change next week. Mr. Emkin responded the style differences were systematic, but these could definitely change. He stated he agreed with President Romero in the Board selecting managers they feel the most comfortable with and have the most confidence in. He added, once the Board has made their selection, they should then look at the chart as background and see if the managers complement each other. The discussion continued among the Board members.

Mr. Mirisola expressed a desire to interview Baillie Gifford. President Romero suggested including Baillie Gifford, but prior to the interview, find out if the firm is able to meet the Board's insurance requirements and if not they should not be interviewed. He again suggested the Board group the managers into three and select the top four in each group. After discussion, the Board decided on Delaware, Marathon London, Boston Company and Lazard for Value managers; Invesco, MFS, Julius Baer and Capital Guardian for Core and Growth at reasonable price; and Fidelity, Marvin and Palmer, Nicholas Applegate,

American Century for Growth and Baillie Gifford (contingent upon meeting the requirements).

After more discussion Mr. Mirisola moved approval of Resolution 04-03 with the addition of the companies selected for interview. Seconded by Mr. Vazquez and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Wiggs and Vazquez

Nays: None

Mr. Emkin left the meeting.

2. Approval of Minutes for the May 21, 2003 Board Meeting.

3. Termination from Monthly Rolls as of June and July 2003:

Retirement Resolution for June 2003.

Termination from the June 2003 Survivorship Roll: Sue Chung, Lilia Krebs, Ella E. Piolatto and Mollie L. Stebbins – death.

Termination from the June 2003 Family Death Benefit Roll: Jamie Lynn Dean – death; and Deazell Johnson and Nima D. Lakeleh – attained 18 years of age.

Retirement Resolution for July 2003.

Termination from the July 2003 Survivorship Roll: Edna A. Campbell – death.

Termination from the July 2003 Permanent Total Disability Roll – Jo Ann Daley – death.

Termination from the July 2003 Permanent Total Disability Roll – Jacoba Haws – retired.

Mr. Vellon reported items 2 and 3 were submitted as consent items. He stated staff wanted to clarify (as of yesterday) a mistake on Resolution 04-14, involving Ms. Joacoba Haws. He added she was retired due to attaining age 65 while on PTD (Permanent Total Disability), but was mistakenly kept on PTD and subsequently received both checks in error. Mr. Vellon explained the mistake was discovered with the assistance of the actuary, who was reviewing the census data, and staff is now dealing with the recovery efforts and the Board would receive update reports.

Mr. Wiggs moved adoption of the above items 2 and 3 on consent. Seconded by Ms. Calvache and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Wiggs and Vazquez

Nays: None

4. Special Board Minutes of June 11, 2003 and July 10, 2003.

5. Benefits Committee Minutes of June 12, 2003.

6. Report of Payment Authorizations as of May and June 2003.

7. Short Term Investments as of May 31 and June 30, 2003.

8. **Stock Portfolio Listing as of April 30 and May 31, 2003.**
9. **Report on Long Term Investment as of April 30 and May 31, 2003.**
10. **Security Transactions for the month of May and June 2003.**
11. **Distribution of Securities by Type and Class as of April 30 and May 31, 2003.**
12. **Statement of Investments owned as of April 30 and May 31, 2003.**
13. **Equity Investments as of April 30 and May 31, 2003.**
14. **Notice of Deaths as of May and June 2003.**
15. **Standish Mellon Asset Management legal notice and update on merger activity.**
16. **Westly (formerly Connell) vs. CalPERS Board of Administration: Denial of petition for Review by California Supreme Court.**
17. **Board of Commissioners appointment of Mr. Michael T. Moore as the Retired member of the Board of Administration of the Water and Power Employees' Retirement Plan for the new term commencing on July 1, 2003 and ending on June 30, 2005.**
18. **Final Disposition of Potential Violation of Government Ethics Ordinance and Conflict of Interest Laws by the Los Angeles City Ethnics Commission.**
19. **Contracts/Agreements finalized and signed by the Board's President:**
 - a) **Merrill Lynch Investment Managers (Russell 1000 Index).**
 - b) **Fred Alger (Large Growth Domestic Equity).**
 - c) **INTECH (Large Growth Domestic Equity).**
 - d) **BNY – GTM Portfolio Transition Agreement.**

Mr. Vellon reported items 4 through 19 were submitted to be received and filed. He indicated there was a typo on item 18 where it should state "Ethics" Commission instead of "Ethnics" Commission. Mr. Vellon also noted, with regards to item 19, the 4 contracts listed had been signed, but the INTECH contract had been delivered to the 15th floor and is being tracked so the Board President can sign it.

Mr. Vazquez referred to pages 6.76 and 6.161 of the agenda packet, both for the same item. He inquired about the subscription (to MagazineCity.Net) and whether it represented a duplicate payment. Mr. Mirisola explained the subscription was to "The Wall Street Journal". Ms. Bhatia explained one of the authorizations had been voided and only one payment authorization (page 6.76) was processed and paid.

Mr. Vazquez inquired about the conflict of interest referral letter on page 18.1 of the agenda packet. Mr. Vellon responded the letter was a referral from the Retirement Board, as a matter of potential conflict of interest, in terms of a former Retirement Plan Manager

working for a company hired to work for the Board. He added the correspondence from the Los Angeles Board of Ethics represented their resolution of the Board's referral. Mr. Vazquez commented the letter did not give the Board any information with regards to the resolution of it. Mr. Vellon responded, as a matter of procedure, this is all the City Ethics Commission provides. Mr. Vazquez inquired how it was disposed of. Mr. Vellon responded it was filed with no further action taken.

Mr. Mirisola inquired if the payment authorization on page 6.31 was one of the old death claims (beneficiaries) found. Mr. Vellon responded this was one of the old pending death cases and 2 search agencies (recommended by Mr. Mirisola and President Romero) were contacted and were able to find a few of the beneficiaries, from a sample of 3 referred to each firm at no cost to the Plan. He reported one beneficiary had received \$81,000, another \$145,000 and another possibility was currently being reviewed by the City Attorney's Office.

Mr. Vellon stated, under a separate agenda item, staff is recommending authority from the Board to pursue a formal relationship with the two search agencies to run all the old claim names through their system, in order to identify more beneficiaries.

Ms. Calvache then moved the above Items 4 through 19 be received and filed. Seconded by Mr. Wiggs and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Wiggs and Vazquez

Nays: None

20. 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 reported Attorney Rosales and Mr. Lakatos were present to update the Board on the Pre-Tax Program for Service Credit Purchases under the DWP Plan.

Mr. Lakatos (Labor Relations Office) approached the podium.

President Romero recognized Mr. Lakatos.

Mr. Lakatos stated a couple of months ago the Retirement Board requested the Labor Relations Office coordinate a discussion of the "pre-tax pickup" proposal with the organized labor organizations representing employees of DWP and on June 19th a letter was sent to each of those organizations together with a copy of the proposed resolution. He stated his office invited comments and requested those comments be returned no later than July 11th. He added they received a response from IBEW (International Brothers of Electrical Workers) who asserted their bargaining right under the proposal. Mr. Lakatos further indicated they met with IBEW, on July 17th, and a question was raised as to whether or not the employees who are currently in purchase contracts would have the opportunity to participate in a pre-tax benefit should it go through. He explained he had found there is in the amendment (that has ultimately been drafted) a provision in the fifth paragraph to allow employees already on a purchase Plan, on a one-time basis, to participate on an ongoing basis in a pre-tax benefit. He stated he communicated this fact

to IBEW as of last Wednesday but the President of the union was out and he is still awaiting a comment on this information. He stated, to his understanding, each of the other unions were notified and had until July 11th to respond and make note on any of their concerns and did not do so.

President Romero thanked Mr. Lakatos and Attorney Rosales and they were excused.

President Romero suggested the Board keep this item on the table, with no action, until final response was received from the Labor Union.

21. Consideration of legal opinion on Cost of Living Adjustment (COLA) for eligible retirement allowances in the event of a negative Consumer Price Index (CPI).

Mr. Vellon explained item 21 involved a request for legal opinion, wherein a clarification was needed as to what would be the situation if the CPI (Consumer Price Index) was negative. He reported the City Attorney sent a legal opinion stating if the CPI is negative the Department still has to provide up to 3% increase to retirees if they have a COLA (Cost of Living Adjustment) bank. He added this is consistent with their prior legal opinion relative to when the CPI is positive. Mr. Vellon indicated staff requested this be placed on the agenda for discussion in order to formally notify the retirees through the monthly newsletter. He noted there have been calls from the retirees on this issue. It was the consensus to accept the legal opinion.

22. Consideration of changes in the Plan's Disability Fund Assumption and billing rates in conformity with the Plan Actuary's report and recommendations.

Mr. Vellon noted in May 2003 the Plan's actuary made a presentation before the Retirement Board and recommended a Plan document change intended to combine the Disability Fund into the Retirement fund and to also change the interest assumption on the Disability Fund, from 8% to 5%, to reflect the fixed income nature of the investments within the Disability Fund. He stated the actuary further recommended the adoption of \$0.68 per \$100 compensation for the billing of the Department, upon the changing of the interest assumption, and also to refrain from billing the Department for the PTD Fund because it is properly and fully funded. Mr. Vellon indicated another recommendation was the maintenance of a funding policy of 20% of the claims, as a reserve. He clarified the Board was asked to study the possibility of merging all of the Retirement funds and Disability funds, if legally appropriate and if it complies with the meet and confer process. He indicated draft Resolution 04-15, if adopted, would get all of these things in motion and staff was recommending its adoption.

President Romero inquired if #5 in Resolution 04-15, where it states "legally feasible", is where the meet and confer process is discussed. Mr. Vellon responded the Retirement Board needed to work with the City Attorney to discern if it is legally viable, given the language of the Plan. Attorney Wilkinson informed the Board it might require a change to the City Charter because it is down as three different Funds of the City Charter, adding Attorney Weisz Jones would be the contact regarding this.

Mr. Vazquez moved adoption of Resolution 04-15. Seconded by Ms. Calvache and carried unanimously after the following vote:

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

Mr. Vazquez inquired what the timeframe was to review the changes and get back to the Retirement Board. Attorney Wilkinson responded he would have to confer with Attorney Weisz Jones, but he believed she would review it as soon as possible.

23. Consideration of request for a yearly membership in the National Association of Public Pension Attorneys for Michael R. Wilkinson, Deputy City Attorney (\$325.00).

Mr. Vellon explained item 23 was a formality of payment for the City Attorney's participation in the National Association for Public Pension Attorneys and approval of Resolution 04-16 was recommended.

Mr. Mirisola moved adoption of Resolution 04-16. Seconded by Ms. Calvache and carried unanimously after the following vote:

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

24. Consideration of authorization for retiree Alfred Alvarado to complete his purchase of Other Governmental Service (OGS) under the unique circumstances of his case.

Mr. Vellon indicated Mr. Alvarado was present in the audience.

Mr. Vellon explained item 24, regarding Mr. Alfred Alvarado (Retiree), stating when Mr. Alvarado retired, the Retirement staff attempted to contact him numerous times because he had started an OGS (Other Governmental Service) purchase for his military service, and under the Plan language, this service typically has to be paid in full before retirement. He reported staff was unable to reach Mr. Alvarado by phone or certified letter (which was returned) and the effective date of retirement actually came through. Mr. Vellon stated Mr. Alvarado contacted the Retirement Office and expressed concerns of not being contacted, but this was not for the lack of trying on staff's part. He stated Mr. Alvarado requested the Board give him the opportunity to pay his military service in full and staff had researched his file in detail and could not find any evidence he had been informed of the deadlines for payment. Mr. Vellon stated, on that basis, it is recommended the Retirement Office accept Mr. Alvarado's payment and his pension be adjusted accordingly to make him whole. He added this had been discussed with the City Attorney.

Attorney Wilkinson expressed he was in full agreement with the recommendation. He added this was a very unusual circumstance and it would not set a particular precedent and he had already spoken with staff on suggestions in preventing a reoccurrence of this nature in the future.

Mr. Vazquez inquired if this was the first occurrence of this type of incident and if the action being taken by the Retirement Board would be consistent with what the Plan has done in

the past. Mr. Vellon responded it was highly unusual for an employee to retire and the Retirement staff being unable to contact him or her and he felt this was a first case.

Mr. Wiggs moved approval of Resolution 04-17. Seconded by Mr. Mirisola and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Wiggs and Vazquez

Nays: None

25. Consideration of Other Departmental Service purchase contract error in Ms. Judy Mould's case.

Mr. Vellon informed the Board Ms. Judy Mould was requesting an opportunity to address them regarding her case. He explained Ms. Mould had ODS (Other Departmental Service) purchase, and, under this contract, payroll deductions are authorized and staff did everything correctly except a typo was made under service credits, wherein "14 months" was mistakenly typed instead of "14 pay periods". He stated Ms. Mould paid the amount in full, but recently contacted the Retirement Office to inquire if she could get the 14 months and staff informed her of the correction clarifying it was 14 pay periods (which amounts to approximately six months).

Ms. Judy Mould approached the podium and was recognized by President Romero.

President Romero recognized Ms. Mould.

Ms. Mould reported, for five years she had been led to believe she bought back 14 months and when she initially went to the Retirement Office she was told she was buying back one year and four months costing \$1,462.50 to be paid back (at \$18.75 a month) starting on May 9, 1998. She stated as far as the figures were concerned, she did not calculate them herself and since the Department signed off on the contract it should be binding.

Mr. Vellon further explained Ms. Mould contacted the Retirement office inquiring if the contract was binding and he responded binding is the Plan language and if staff had mistakenly put 14 years instead of 14 months it would not be possible to give her 14 years. He stated all the calculations were done for 14 pay periods and it was due to human error 14 months was written. He added Ms. Mould further misunderstood it to be one year and four months.

Ms. Mould stated when she talked to someone in the Retirement office one year and four months was quoted to her and that is how her contracts reads.

President Romero inquired of Attorney Wilkinson where the Board stood on the situation. Attorney Wilkinson responded he had not been requested by staff to look into the matter, but he would be happy to do so.

Ms. Calvache inquired if Ms. Mould was eligible to buy her ODS for one year and four months. Ms. Mould responded when she went to the Retirement office a couple of months ago, it was stated to her that "part-time" for one year is only equivalent to six months and

she wasn't aware of this and this was the only time she knew of her buy back time other than her working for the school district at some point.

Mr. Vazquez noted on page 25.2 of the agenda packet there is a service period from April 11, 1983 to March 26, 1984, and inquired if the total number of years and months should have been factored by the part time and if the dollar amount was correct.

Mr. Vellon responded in the affirmative. Mr. Vazquez inquired if the dollar amount was correct, based on the part-time. Mr. Vellon responded in the affirmative.

Mr. Vellon explained, essentially what Ms. Mould argues is if she was told it was 14 months, incorrectly, the contract is binding and the Department should give her the 14 months. Mr. Mirisola commented the amount calculated was only based on the 14 pay periods.

Ms. Mould stated, at the time, she took the Retirement Office staff member at their word for one year and four months, and the dollar figure meant nothing to her because she did not know how to calculate it so there was no way for her to double check behind anyone. She stated she simply took the staff at the Retirement Office at their word and they should be well trained, so when an employee comes in to talk to them they know what they are doing. She questioned where was the accountability.

President Romero indicated, unfortunately we are all human and mistakes are made, especially when the office is not computerized. He then apologized to Ms. Mould for the error and inquired if Attorney Wilkinson had any input on the situation. Attorney Wilkinson responded he had not received any information regarding the matter until just yesterday and had no time to research. He then inquired about the writing (correction over the years and months) that was evident on page 25.2 of the agenda packet. He inquired of Ms. Mould if this was the way it was when she signed the contract or were the corrections made afterwards. Ms. Mould responded she thought the changes were made after she signed the document. Mr. Vellon asked Ms. Shimamoto if she knew anything about when this correction was made. Ms. Shimamoto responded she did not know. Ms. Mould commented the new figures might have been written when she went to the Retirement Office a couple of months ago and one of the supervisors worked on her paperwork. Attorney Wilkinson stated he would follow up with staff at a later time on the matter.

Ms. Shimamoto stated the controversy became an issue when Ms. Mould went to the Retirement section. She stated the original figures were done in the Membership section and then when Ms. Mould went to Retirement section and the calculations were done, then the error was found on the contract, therefore the corrections in writing probably occurred recently.

Ms. Mould stated it is easy to say it was just a typo and inquired who was double-checking the contracts before they are signed off on and the Department agrees upon it. She stated when an error has this big of an affect on a person's life and their retirement, just saying, "it was a typo" is not acceptable.

Mr. Vellon commented it is terribly difficult to accept and find a typo of this nature and staff have apologized profusely for the error. He indicated he understands apologies are understandably not sufficient for Ms. Mould. He added if the Retirement Office's operation

is not computerized these types of errors are likely to occur. Ms. Mould stated there needed to be a precedent made wherein the contracts are looked over before being signed off on and she does not accept it was just a typo, because it may make a very big impact on her life.

Mr. Wiggs stated according to the typo Ms. Mould was paying for 14 pay periods but she must have thought she had sixteen months (which is equal to 1 year and 4 months) and stated he did not understand whether or not she was entitled to one year and four months and, if everything was done correctly, was she eligible to buy this much time back or if she is only entitled to 14 pay periods. He added, legally, the Department does not have the ability to give anyone more time than they are entitled to, even if the Department made an error. Ms. Mould stated she was looking for a compromise and wanted to buy back that year and wanted it calculated at the same dollar figure as the contract states. Mr. Vellon responded the Department could not support this, because in terms of the calculation, if Ms. Mould would have come in today or last year she could only have received six months, consequently, the question of compromise, from the Retirement Office's perspective, is not applicable. He clarified the amount owed is correct and the typo was only in regards to the time noted on the face of the contract.

Mr. Vazquez noted the Board just had an item disposed of regarding Mr. Alvarado based on a recommendation from the Retirement Plan office to the Board and he then requested a recommendation from them at the next Board meeting regarding this issue.

President Romero thanked Ms. Mould.

Ms. Mould left the meeting.

26. Consideration of Resolution authorizing the extension of certain retirement benefits, under Section IV of the Retirement Plan, to the following units represented by the Engineers and Architects Association (EAA): Administrative Unit, Professional Unit, Supervisory Professional Unit, and the Technical Unit.

Mr. Vellon explained item 26 was the result of the MOUs adopted for certain units within the EAA (Engineers and Architects Association) and is essentially a resolution extending the same benefits as Local 18, consistent with the Plan amendment the Board had already adopted so as not to have to go back to the Board of Commissioners for further Plan amendments as more MOU's settled under the "most favored nations" clauses.

Mr. Vazquez moved approval of Resolution 04-18. Seconded by Mr. Mirisola and carried unanimously after the following vote:

Ayes: Romero, Mirisola, Calvache, Wiggs and Vazquez

Nays: None

27. Selection of International Equity Investment Managers for interview (within the Developed Markets segment and within the various investment manger style identified).

This item was discussed out of sequence. (See page 3 of these minutes).

28. Consideration of engagement of search services agencies in connection with the Plan's old pending death benefit claims.

- a) **International Claims Specialists**
- b) **Docu-Search**

Mr. Vellon reported this item had been explained as old death benefits wherein the Retirement office staff had been unable to locate the beneficiaries, dating back to the 70's. He reported staff had already approached International Claims Specialists and Docu-Search, suggested by President Romero and Mr. Mirisola, and they were each given three difficult cases and, between the two entities, three were found with a fourth possibility. He stated there was a group of approximately 40 to 60 cases with no resolution in sight. He indicated staff would like permission from the Board, in principle, to put something on the agenda for the next Board meeting in order to engage those two companies for a full search of all pending old claims.

Mr. Vazquez inquired if this type of search could have been used in the case of Mr. Alvarado. Mr. Vellon responded this would not have been practical for Mr. Alvarado's case. President Romero suggested Mr. Vellon come back with a proposed Board resolution at the next Board meeting.

29. Retirement Plan Manager's comments.

- a) **Legal Opinions.**

Mr. Vellon indicated the Board had already received a summary of the legal opinions and these had been discussed, but there were two more regarding Mr. Woodard. He explained Mr. Woodard wanted to waive his pension benefits and resign and continue on Worker's Compensation and apply for a refund of his member's contributions. He stated the City Attorney's opinion concluded Mr. Woodard could do this. Mr. Vellon added Mr. Woodard also requested a legal opinion on whether he is eligible for death benefits if he dies under Worker's Compensation and whether he would be treated as an active employee for purposes of the "14 times salary" death benefits. Mr. Vellon reported the City Attorney responded to this request, but some clarifications by Attorney Wilkinson are needed before a response can be drafted for Mr. Woodard.

Mr. Vellon indicated another legal opinion received addresses whether social security participation would bar a person from OGS purchase. He reported the City Attorney concluded if a person is covered by social security, in the prior governmental service, this will not preclude such person from purchasing OGS. Mr. Vellon stated a summary had already been given regarding the legal opinion on COLA for retirees when the CPI is negative, and the response was "yes" they would get up to 3% if they have a COLA bank.

Mr. Vellon stated the last legal opinion was regarding Mr. Benton's case and the City Attorney concluded that the QDRO (Qualified Domestic Relations Order) document submitted was not enforceable under the DWP Plan and, therefore, the Department could not comply with it.

b) DWP Plan Newsletter for retirees (June 1, 2003 and July 1, 2003 Edition).

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

c) General Items.

Protocol for Termination of Outside Counsel

Mr. Vellon indicated there was a note in the agenda packet from Attorney Weisz Jones concerning a clarification the Deputy City Attorney sent, reiterating if the Board wants to terminate Mr. Klausner (outside Board counsel) they must first consult the City Attorney's office.

Remodeling of the Retirement Office

Mr. Vellon reported since the Retirement office has yet to be remodeled, they have not been able to fill the new positions. He noted these had been exempted from the Department freeze by Mr. Wiggs and Mr. Vazquez.

Mr. Mirisola inquired when would the remodeling of the Retirement office start. Mr. Vellon responded a notice was sent to Mr. Tom Lee (architect), the floor layout was completed, but authorization was needed from Mr. Salas who has not been able to respond to the various requests made.

Mr. Vazquez commented most things had been put off indefinitely pending the move from the AOB, which should be done in September. President Romero asked for a monthly update on the progress of the remodeling be put on the Board agenda.

Retirement Office Vacancies

Mr. Mirisola inquired if an exemption from the hiring freeze was possible in order to fill vacancies within the Retirement office. Mr. Vazquez responded new positions had already been approved and these were not subject to the new hiring freeze.

Ms. Bhatia clarified the exemption was for the new positions and not the existing vacancies within the Retirement Office. Mr. Wiggs stated he will approve the vacant positions once the paperwork has been submitted to him. Ms. Calvache expressed her concern for the Plan vacancy of supervisory in the Disability section because of the significant monthly payments this section is responsible for and proper supervision is urgent.

PUBLIC COMMENTS

Board President Romero recognized Mr. Donald Benton (Retiree).

Mr. Benton approached the podium again and stated he had witnessed two other employees allowed time to speak to the Board and he had requested this 4 times (twice in writing) and was denied the opportunity and wanted to know why. He also noted in the

Board packet, page 29a.2, the request date is July 16, 2003, but the correct date is May 23rd and he wanted the record to be clear on this. Mr. Mirisola clarified the request date is the date DWP requests the information, meaning it is an internal date. Mr. Benton pointed out the request date is after the opinion date and he did not understand this (this was a typo the correct request date was June 16,2003.) He reiterated the fact he requested his issue be placed as an agenda item so there could be some questions and answers and this was denied. President Romero responded the Board would get back to him after conferring with the City Attorney's office, so all are able to look at the matter with a little more detail. Mr. Benton expressed he would like to have the matter resolved today. President Romero stated it was not possible to resolve it today.

Mr. Wiggs inquired if it was possible to give Mr. Benton a date on when the issue could be resolved. President Romero responded Attorney Wilkinson has given his final opinion. Attorney Wilkinson stated he had communicated to staff the issue was presented as a public comment and it was inappropriate to address it at this time. President Romero stated the Board and staff would do more research and have more dialogue at a later time. Mr. Vazquez inquired, since Mr. Benton did travel here in order to make public comments and cited certain things, could the Board respond. Attorney Wilkinson reiterated this was not appropriate today, only if made an agenda item in the future. It was decided by the Board to place Mr. Benton's issue as an item on the next Regular Board agenda.

The Board meeting was adjourned at 11:34 a.m.

JAVIER ROMERO
President

DUAMEL VELLON
Secretary

SILVIA TESSENEER
Recording Secretary