

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

DISABILITY MEETING

FEBRUARY 12, 2018

MINUTES

DIRECTORS
PRESENT:

Tracy Towner, Chair, Alternate Safety Employee Member
William W. Wilson, Vice Chair, Public Member
Steven Hintz, Treasurer-Tax Collector
Mike Sedell, Public Member
Robert Bianchi, Public Member
Craig Winter, General Employee Member
Arthur E. Goulet, Retiree Member
Will Hoag, Alternate Retiree Member
Chris Johnston, Safety Employee Member
Ed McCombs, Alternate Public Member

DIRECTORS
ABSENT:

Peter C. Foy, Public Member
Maeve Fox, General Employee Member

STAFF
PRESENT:

Linda Webb, Retirement Administrator
Lori Nemiroff, General Counsel
Henry Solis, Chief Financial Officer
Julie Stallings, Chief Operations Officer
Vickie Williams, Retirement Benefits Manager
Karen Scanlan, Accounting Manager I
Donna Edwards, Retirement Benefits Specialist
Stephanie Berkley, Retirement Benefit Specialist
Rebekah Villalobos, Retirement Benefit Specialist
Nancy Jensen, Retirement Benefit Specialist
Teresa Cruz, Retirement Benefit Specialist
Chris Ayala, Program Assistant

PLACE:

Ventura County Employees' Retirement Association
Second Floor Boardroom
1190 South Victoria Avenue
Ventura, CA 93003

TIME:

9:00 a.m.

ITEM:

I. CALL TO ORDER

Chair Towner called the Disability Meeting of February 12, 2018, to order at 9:00 a.m.

II. APPROVAL OF AGENDA

After discussion by the Board, the following motion was made:

Chair Towner amended the agenda by moving item "VIII.A. Closed Session", before item "V.D. Application for Service Connected Disability Retirement - Titcher, Jeffrey; Case No. 13-017".

MOTION: Approve as Amended.

Moved by Bianchi, seconded by Hintz.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

III. APPROVAL OF MINUTES

A. Business Meeting of January 29, 2018.

Trustee Goulet offered two corrections to the minutes. He said that on page 6 of the agenda, regarding his statement on actuarial report, his statement should have read, "that the decrease in accrued liability was substantially affected". On page 7, Trustee Johnston's question should have included the phrase, "and fulfilling our fiduciary responsibilities".

After discussion by the Board, the following motion was made:

MOTION: Approve Business Meeting Minutes of January 29, 2018, with Corrections.

Moved by Wilson, seconded by Goulet.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

IV. RECEIVE AND FILE PENDING DISABILITY APPLICATION STATUS REPORT

After discussion by the Board, the following motion was made:

MOTION: Approve.

Moved by Bianchi, seconded by Sedell.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

V. APPLICATIONS FOR DISABILITY RETIREMENT

A. Application for Service-Connected Disability Retirement - Gonzales, Henry; Case No. 16-017.

1. Application for Service-Connected Disability Retirement, filed May 19, 2016.
2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-Connected Disability Retirement, dated January 6, 2018, received January 16, 2018.
3. Hearing Notice, dated January 26, 2018.

Catherine Laveau, was present on behalf of County of Ventura Risk Management. The applicant, Henry Gonzales, was also present.

Both parties declined to make statements.

After discussion by the Board, the following motion was made:

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Sedell, seconded by McCombs.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

Both parties agreed to waive preparation of findings of fact and conclusions of law.

B. Application for Service-Connected Disability Retirement - Brister, Larry C.; Case No. 16-027.

1. Application for Service-Connected Disability Retirement, filed August 31, 2016.
2. Medical Analysis and Recommendation, including Supporting Medical Documentation, submitted by County of Ventura, Risk Management, in support of the Application for Service-Connected Disability Retirement, dated January 31, 2018.
3. Hearing Notice, dated February 5, 2018.

Catherine Laveau, was present on behalf of County of Ventura Risk Management. Thomas J. Wicke, Attorney at Law, was present on behalf of the applicant. The applicant, Larry C. Brister, was also present.

Both parties declined to make statements.

After discussion by the Board, the following motion was made:

MOTION: Approve Application for Service-Connected Disability Retirement.

Moved by Johnston, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

Both parties agreed to waive preparation of findings of fact and conclusions of law.

C. Application for Service-Connected Disability Retirement - Olmos, Reymundo D.; Case No. 16-013.

1. Summary and Analysis of the Evidence, Proposed Findings of Fact and Conclusion of Law, submitted by Hearing Officer James P. Cloninger, dated January 2, 2018.
2. Hearing Notice, dated January 18, 2018.

Stephen D. Roberson, Attorney at Law, was present on behalf of County of Ventura Risk Management. The applicant, Reymundo D. Olmos, was also present.

Mr. Olmos stated that he agreed to accept into the record the Proposed Findings of Fact, but not the Conclusions of Law.

Both parties made brief statements.

After discussion by the Board, the following motion was made:

MOTION: Deny Application for Service-Connected Disability Retirement.

Moved by Hintz, seconded by Wilson.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

Following the vote on this item, the Board advanced to agenda item, VIII.A. "Closed Session."

D. Application for Service-Connected Disability Retirement - Titcher, Jeffrey; Case No. 13-017.

1. Memorandum: Ventura County Employees' Retirement Association General Counsel, submitted by VCERA Board Counsel, Lori A. Nemiroff.
2. Notice of Entry of Revised Judgment-Granting Peremptory Writ of Mandate.
3. Revised Judgment Granting Peremptory Writ of Mandate
4. Petition for Reconsideration dated January 11, 2016, submitted by Applicant Jeffrey Titcher.
5. Legal Memorandum in Opposition to Applicant's Petition for Reconsideration, dated January 15, 2016, submitted by Stephen D. Roberson, Attorney for County of Ventura/Risk Management.
6. Summary of Evidence, Findings of Fact, Conclusion of Law and Recommended Decision, dated October 28, 2015, submitted by Hearing Officer Irene P. Ayala
7. Hearing Notice, dated February 5, 2018.

Catherine Laveau, was present on behalf of County of Ventura Risk Management. The applicant, Jeffrey Titcher, was not present.

Ms. Nemiroff announced that the Board had voted not to appeal the case of Titcher v. Board of Retirement.

Ms. Nemiroff then informed the Board that there was a memorandum, a recommendation, and the judgement in the court case Titcher v. Board of Retirement. She said that the first part of the recommendation was to set aside the Board's decision of February 1, 2016, denying Mr. Titcher's request for a non-service connected disability retirement, in lieu of a service connected retirement, and to then make a new decision granting Mr. Titcher's

application for a non-service connected disability retirement based on the court's ruling, dated October 13, 2017, and judgment date January 5, 2018.

She said the second part of the recommendation was to authorize staff to pay approved court-awarded costs, estimated at \$555.00.

After discussion by the Board, the following motions was made:

MOTION: 1.) Set Aside the Board's Decision of February 1, 2016, Denying Jeffrey Titcher's Request for a Non-Service Connected Disability Retirement in Lieu of a Service-Connected Disability Retirement, and Grant Jeffrey Titcher's Application for a Non-Service Connected Disability Retirement, Based on Court Ruling Dated October 13, 2017, and Judgment Dated January 5, 2018.

2.) Authorize Staff to Pay any Approved Court-Awarded Costs, Estimated at \$555.

Moved by Wilson, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Goulet, Hintz, Johnston, McCombs, Sedell, Towner, Wilson, Winter

No: -

Absent: Foy, Fox

Abstain:

VI. OLD BUSINESS

A. Recommendation to Approve HCA Fiscal Premium Pay.

RECOMMENDED ACTION: Approve.

1. Staff Letter.
2. Updated Language for Section 410 of the Management Resolution.

Ms. Webb reminded the Board the agenda item had previously been tabled on several occasions, as it had often been discussed along with the Market Based Premium Pay (MBPP), because of similar issues with the two categories. She said that as with MBPP, VCERA's Counsel and the County Counsel collaborated, which resulted in a proposed amendment to Section 410 of the Management Resolution, which was approved by the Board of Supervisors. Staff believed the amended section had met the criteria and therefore recommended approval.

Trustee Goulet said the new language seemed to say the Director of the Health Care Agency could amend the Resolution at his or her sole discretion. He believed that it was not the intent, and thought it would have to be amended by the Board of Supervisors.

Ms. Webb replied that the Resolution stated that changes to the section would have to be publicly posted, which meant that it would have to then be voted on by the Board of

Supervisors, at which point the Board of Retirement would reevaluate the amended Resolution.

After discussion by the Board, the following motion was made:

MOTION: Approve.

Moved by Sedell, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Fox, Goulet, Hintz, Johnston, Sedell, Wilson, Winter

No: -

Absent: Foy, McCombs

Abstain:

VII. NEW BUSINESS

A. Request for Authorization for Up to 500 Hours for V3 System Enhancements.

RECOMMENDED ACTION: Approve.

1. Staff Letter.
2. Enhancement Summary.
3. V3 Hours Summary.

Ms. Webb said that staff had complied the provided list of enhancements, showing which enhancements are most critical and therefore recommended for the current budget year.

While the expenditure of hours had slowed, staff was still engaging Vitech on some issues.

She noted that item A on the provided list contained work that staff believed should already have been included. As for the other items, she believed that they were either outside of the initial warranty period or not within the original scope of the project.

She said that post-implementation enhancements were common, and that staff had been careful in their requests, continuing to track the number of hours used.

Trustee Goulet said that while he had no objection to the work, he believed there should be a contract signed by both parties stating the work to be done, and a not-to-exceed number of hours agreed upon. He believed the Board should authorize an additional \$25,000 for the enhancement work, to be used at the Retirement Administrator's discretion.

Ms. Webb cautioned that converting the enhancement list into a statement of work could cause each enhancement to move to the range maximums and feasibly cost more than proceeding without the statement of work.

Trustee Bianchi said that based on his experience, a contract was usually better than to have the work done based on time and materials.

Ms. Webb replied that when the V3 project initially was completed, VCERA had the option to buy a block of hours at a discount or to have the work done on time and materials. Ultimately, the Board voted for time and materials. She said that she could ask the vendor to convert the list into a contract, but preferred to request that Vitech agree that if any of the items were going to exceed the estimated range, to stop and notify staff. She believed that the work could be managed best in this way.

After discussion by the Board, the following motion was made:

MOTION: Approve Recommendation with an Additional \$25,000 to be Used at the Discretion of the Retirement Administrator as a Contingency.

Moved by Sedell, seconded by Bianchi.

Vote: Motion carried

Yes: Bianchi, Fox, Goulet, Hintz, Johnston, Sedell, Wilson, Winter

No: -

Absent: Foy, McCombs

Abstain:

VIII. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov. Code section 54956.9) PURSUANT TO GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (d)(1): NAME OF CASE: Titcher v. Board of Retirement; Ventura County Superior Court Case No. 56-2016-00481070-CU-WM-VTA.

Upon returning to Open Session, the Board returned to agenda item V.D.

IX. INFORMATIONAL

A. Follow-Up on Trustee Goulet's Request for Cost of Nossaman LLC Related to MBPP.

X. PUBLIC COMMENT

None.

XI. STAFF COMMENT

Ms. Webb reminded the Board to let staff know if they would be attending the SACRS 2018 Spring Conference and reminded them that filing for the Board's Form 700 would be due in April.

XII. BOARD MEMBER COMMENT

None.

XIII. ADJOURNMENT

The meeting was adjourned at 9:41 a.m.

Respectfully submitted,



LINDA WEBB, Retirement Administrator

Approved,



TRACY TOWNER, Chairman