

CITY OF LOS ANGELES  
BOARD OF DEFERRED COMPENSATION ADMINISTRATION

ADOPTED MINUTES  
REGULAR MEETING JULY 15, 2014 - 9:00 A.M.  
700 E. TEMPLE STREET, ROOM 350

BOARD MEMBERS:

**Present:**

John R. Mumma, Vice-Chairperson  
Clifford Cannon, First Provisional Chair  
Tom Moutes, Second Provisional Chair  
Michael Amerian, Third Provisional Chair  
Ray Ciranna  
Mary Higgins  
David Luther  
Robert Schoonover

**Not Present:**

Eugene K. Canzano, Chairperson

Staff:

Personnel:

Steven Montagna  
Esther Chang  
Paul Makowski

Alejandrina Basquez

City Attorney:

Curtis Kidder

1. CALL TO ORDER

John Mumma started the meeting at 9:08 a.m.

2. PUBLIC COMMENTS

Mr. Mumma welcomed David Luther to the Board.

3. MINUTES

Mr. Mumma noted a correction to a typographical error. **A motion was then made by Michael Amerian, seconded by Ray Ciranna, to approve the June 17, 2014 Regular Meeting minutes as amended; the motion was unanimously adopted.**

#### 4. BOARD REPORT 14-28: FDIC-INSURED SAVINGS ACCOUNT PROVIDER SELECTION

Steven Montagna indicated that this report address the Board's recently issued RFP for the FDIC-Insured savings option. He began by providing background on the Plan's FDIC option, which he stated had been in the Plan in some form since the Plan began in 1983. He indicated that the current structuring of this option was created in 2009 in reaction to issues in 2008 with Washington Mutual Bank, which was facing bankruptcy at the time it was purchased by JP Morgan. He stated that the multi-institution model currently used has two primary purposes: to increase the Plan's flexibility in the event that the underlying providers encounter any institutional solvency issues, creating the flexibility to move assets from one provider to another, and at the same time multiplying the amount of FDIC insurance available to each individual participant.

Mr. Montagna indicated that the RFP released in 2009 received only one response, and as a result the Board went out and had the consultant do a vendor search so that three banking institutions could be found. He then stated that the current RFP - issued on April 8 with responses due June 13 - received only two proposals, one from an incumbent provider, Bank of the West, and another from East West Bank. He noted that no responses were received from the two other incumbents, City National Bank, which stated it would not pursue a renewal of this contract, and Bank of America, which indicated it would not be responding to the RFP because of issues related to the City of Los Angeles' General Contracting Requirements.

Mr. Amerian asked if the City's contracting process contributed to the lack of response to the RFP. Mr. Montagna indicated that Bank of America was the only respondent which stated a specific reason or issue, specifically the Business Inclusion Program and its result of having to misrepresent a potential sub-contracting opportunity when none in fact existed.

Mr. Montagna indicated that Mercer had reviewed the RFP responses of both responding vendors and indicated that both were institutionally viable. He then stated that if both vendors were selected, staff would have two and a half months to execute the contracts, which was a challenging but possible timeline. He then indicated that, in the meantime, a third provider would need to be identified and stated that staff recommended the Board authorize the consultant to conduct a vendor search for a third provider. He stated staff additionally recommended the Board seek City Council authorizations to extend any necessary incumbent contracts beyond their current five-year terms. He indicated that Bank of America had indicated a willingness to extend the contract under current terms and conditions, but City National Bank had previously indicated it was no longer interested in continuing to be a provider.

Mr. Montagna indicated that both staff and the consultant believed that the lack of institutional interest in the FDIC option was due to a highly unusual and distorted monetary environment and protracted environment of low-interest rates. Devon Muir of

Mercer Consulting indicated that assets in the FDIC option are viewed as liabilities to the bank, lowering the financial ratio of the institution. Tom Moutes asked if a termination provision would be added in the contract to be utilized if the financial climate changed. Mr. Montagna responded affirmatively. Mr. Mumma asked if the contract was for a three year period. Mr. Montagna stated that the contract term was for five years. Mr. Ciranna asked how long of an extension would Bank of America allow. Mr. Montagna stated that a time period was not defined during initial discussions. Mr. Mumma asked about the likelihood of identifying a third vendor. Mr. Muir indicated that there was a fair probability. Mr. Ciranna asked whether all participants with funds in the account were fully covered under the applicable FDIC insurance limit. Mr. Montagna noted that only a small handful were above the account's current maximum coverage amount of \$750,000.

Mr. Ciranna asked about feedback from other financial institutions that attended the pre-proposal conference but did not submit a proposal. Esther Chang indicated that there was discussion addressing questions regarding completing forms and fulfilling requirements, particularly related to the Business Inclusion Program. Mr. Mumma asked if the City Council would ever waive this contractual requirement. Mr. Montagna indicated that in the past, Employee Benefits Division attempts at obtaining waivers for various contracts had been unsuccessful.

**Following this discussion, a motion was made by Cliff Cannon, seconded by Mr. Moutes, to approve the selection of Bank of the West and East West Bank as providers for the City of Los Angeles Deferred Compensation Plan FDIC-Insured Savings Account; the motion was unanimously adopted.**

**A second motion was made by Mr. Amerian, seconded by Bob Schoonover, to instruct staff to draft a proposed contract for Bank of the West and East West Bank and authorize the Board Chairperson to execute the contracts, subject to agreement between the City and contracted providers as to all applicable terms and conditions; the motion was unanimously adopted.**

**A third motion was made by Mr. Schoonover, seconded by Mr. Cannon, to find that the use of competitive bidding for a third provider would be undesirable and impractical and therefore direct staff and the Plan's investment consultant to perform a search for a third provider; the motion was unanimously adopted.**

**A fourth motion was made by Mr. Ciranna, seconded by Mr. Amerian, to direct staff to seek City Council authorization of any needed extensions required for this option's incumbent providers if new contracting deadlines are unable to be met, and authorize the Board Chairperson to execute any necessary contract amendment(s) with those providers to extend the contract(s); the motion was unanimously adopted.**

## 5. BOARD REPORT 14-29: NATIONAL SAVE FOR RETIREMENT WEEK 2014

Mr. Montagna discussed a recommendation for a promotional campaign for engagement and awareness of web tools during National Save for Retirement Week in

October 2014. He indicated that the previous campaign announced the launch of a new website along with two new tools: a calculator that provides plan participants with a projection of their post-retirement income relative to their lifestyle income at time of retirement, and a simple account management tool that helps participants check in on the most important factors that drive successful outcomes with their accounts. He noted success in the tools, noting that since inception the calculator tool had been used by approximately 60% of the average number of discrete users of the website.

Mr. Montagna proposed a promotional campaign that would provide incentives in the form of gift cards for active and retired participants who log in to the website, use the tools, and report back to the Plan. He added that the campaign elements included: 1) a Mayor/Council proclamation recognizing National Save for Retirement Week, 2) communication to encourage participants to use the awareness tools that are included on the Plan website, 3) a new survey tool for retired participants, and 4) an online mechanism to self-report tool results and simultaneously make them eligible for incentives. He then noted that the incentives would consist of two hundred \$25 gift cards, at a total cost of \$5,000.

Mr. Montagna further noted that this initiative was likely to be one of the Personnel Department's goals for FY 14/15. He added that the project is closely tied to the core mission of the Plan and its outcomes are highly measurable.

Mr. Mumma asked about financing for communications costs and if they were an additional cost to the Plan. Mr. Montagna indicated the costs would be part of the Plan's annual communications budget established with Great-West. Mr. Cannon asked what survey questions would be targeted to retired participants. Mr. Montagna indicated that the survey questions were being developed and would be presented to the Board at the August meeting. He then indicated that the intent of the retiree survey was to identify their income adequacy in retirement and other information about their retirement experience.

**A motion was then made by Mr. Amerian, seconded by Mr. Cannon, to approve staff's proposed promotional campaign, including related communications and incentive costs, for the Deferred Compensation Plan Retirement Income Projections Calculator Tool, Account Review Tool and proposed Retired Income Adequacy Self-Assessment Tool during the October 2014 National Save for Retirement Week; the motion was unanimously adopted.**

## 6. BOARD REPORT 14-30: QUARTERLY BUDGET REVIEW AND REIMBURSEMENTS

Paul Makowski reviewed proposed reimbursements for the quarter ending March 31, 2014 and indicated that reimbursement totaled \$155,050.25 for Personnel Department staff and \$23,090.02 for City Attorney staff. He then indicated that supporting documentation for reimbursement figures was included on attachments A & B of the report.

**A motion was made by Mr. Cannon, seconded by Mr. Schoonover, to receive and file the status report on Deferred Compensation Plan budget accounts for the quarter ending 3/31/2014; the motion was unanimously adopted.**

**A second motion was made by Mr. Ciranna, seconded by Mr. Luther, to approve staff's proposed quarterly reimbursements from the Deferred Compensation Plan Reserve Fund account to the Personnel Department and City Attorney; the motion was unanimously adopted.**

#### 7. BOARD REPORT 14-31: STEPTOE AND JOHNSON LLP

Ms. Chang reviewed the staff report to provide funding for the second year of contractual services. Mr. Kidder indicated that a review of contractual invoices showed the amounts billed were appropriate. Mr. Ciranna asked if staff agreed as to the appropriateness of the charges; Mr. Montagna responded affirmatively. Mr. Cannon asked if a training component is included in the contract extension. Mr. Montagna responded that trainings can continue to be provided under the contract.

Curtis Kidder clarified that the contract was for three years and that funding was on an annual basis, which would come to the Board each year for approval. He then indicated that there is a carryover amount from the first year. Mr. Amerian asked if training for new Board members was allotted in the second contract year. Mr. Kidder responded affirmatively.

**A motion was then made by Mr. Amerian, seconded by Mr. Moutes, to approve funding for the second year of the contract with Steptoe & Johnson in the amount of \$10,000; the motion was unanimously adopted.**

**A second motion was made by Mr. Ciranna, seconded by Mr. Amerian, to recommend that the City Attorney take the necessary actions to amend the contract to provide such additional funding; the motion was unanimously adopted.**

**A third motion was made by Mr. Ciranna, seconded by Mr. Moutes, to direct that any unused balance from the current contract year be carried forward and available for use in the second contract year; the motion was unanimously adopted.**

#### 8. HARDSHIP APPEAL 14-01

Ms. Chang indicated that this hardship case was submitted to Great-West and denied based on their finding that the circumstances did not align with examples of hardship bases provided by Internal Revenue Service (IRS) regulations. She then reviewed the situation and supporting documentation of the appellant and stated staff's finding that the IRS regulations are meant to be examples and not exhaustive of every potential

circumstance for granting a withdrawal. She stated that in staff's view the applicant's circumstances indicated both a series of unforeseen events as well as a present financial emergency, which were the fundamental requirements for a hardship withdrawal.

Mr. Cannon asked if the appellant's salary loss was due to the loss of overtime pay. Ms. Chang responded affirmatively. Mr. Cannon asked how the appellant's two outstanding loans would be affected if the appeal was granted. Ms. Chang confirmed the appellants' outstanding loan status and indicated that the appellant would still make loan repayments. Mr. Cannon then asked why the appellant's Deferred Compensation Account balance was only listed on the front page and not in the financial summary under the asset section. Mr. Montagna indicated that the Hardship Appeal report format was carried over from a previous time when the Board reviewed Hardships on a regular basis.

Mr. Moutes asked if the Plan's legal counsel concurred with the staff recommendation. Mr. Kidder did not indicate agreement or disagreement with the staff recommendation, but indicated that legal counsel would be able to provide guidance to the Board for the Board to determine how to proceed based on facts provided. Mr. Moutes indicated a preference for legal analysis to be completed on hardship appeals and asked that the practice be added on any cases presented before the Board in future meetings. Mr. Montagna indicated that the IRS guidelines are not restrictive and allow for diligence accomplished by a case-by-case review. Mr. Moutes indicated that a legal review is still preferable. Mr. Kidder indicated that the Brown Act allows for closed session meetings for these situations, which must be timely noticed on the meeting agenda; he indicated that legal counsel could provide further guidance during closed session.

David Luther asked if a delay in a decision would negatively impact the appellant. Ms. Chang reviewed a series of financial impacts to the applicant that would occur if a Board decision was deferred. Ms. Higgins stated a concern with the degree to which the case was based on the situation created by the applicant's son, and whether the son was a valid dependent for the purpose of a hardship application.

Mr. Montagna indicated that in general the IRS looks for a thorough review and investigation based on documented facts and circumstances and that IRS regulations related to hardships are considered more as guidelines rather than determinative. Mr. Ciranna asked about the garnishment amounts for the appellant and asked if positive cash flow could be realized if a partial withdrawal covered garnishments. Ms. Chang responded affirmatively.

Mr. Schoonover stated he believed the circumstances documented by the appellant were extreme and clearly demonstrated a financial hardship under IRS guidelines. Mr. Amerian also indicated his support for a full withdrawal. Mr. Moutes indicated he was opposed to the motion based on issues with supplied facts about the appellant and the requirements of the law, specifically the Internal Revenue Code. He then expressed a belief that the Plan may be unnecessarily vulnerable in such a situation without advice

by the Plan's legal counsel regarding report recommendations. Mr. Mumma asked that closed session be scheduled as an option for all future hardship cases so that more input could be provided from legal counsel. Mr. Montagna indicated this could be done.

**A motion was made by Mr. Schoonover, seconded by Mr. Luther, to approve a full withdrawal of the participant's account in Hardship Appeal 14-01; the motion was approved with seven affirmative votes (Mr. Amerian, Mr. Cannon, Mr. Ciranna, Ms. Higgins, Mr. Luther, Mr. Mumma, and Mr. Schoonover) and one negative vote (Mr. Moutes).**

#### 9. BOARD REPORT 14-32: STAFF REPORT

Ms. Chang reviewed the staff report covering activity through June 2014. She reviewed statistics for counter activity, accrued leave, hardships, deferrals and Roth statistics. **A motion was made by Mr. Amerian, seconded by Mr. Ciranna, to receive and file the staff report; the motion was unanimously adopted.**

#### 10. REQUESTS FOR FUTURE AGENDA ITEMS

Mr. Ciranna asked for a post NAGDCA conference report. Mr. Mumma asked for an update on upcoming conference trainings.

#### 11. FUTURE MEETING DATES

The next Regular Meeting is set for August 19, 2014.

#### 12. ADJOURNMENT

**A motion was made by Mr. Cannon, seconded by Mr. Amerian, to adjourn the meeting; the motion was unanimously adopted. *The meeting adjourned at 10:35 a.m.***