CITY OF LOS ANGELES
BOARD OF DEFERRED COMPENSATION ADMINISTRATION

ADOPTED MINUTES
REGULAR MEETING AUGUST 21, 2012 – 9:00 A.M.
700 E. TEMPLE STREET, ROOM 350

BOARD MEMBERS:

Present:	**Not Present:**
Eugene K. Canzano, Chairperson	Sangeeta Bhatia, Third Provisional Chair
John R. Mumma, Vice-Chairperson	Robert Schoonover
Clifford Cannon, First Provisional Chair	Margaret Whelan
Tom Moutes, Second Provisional Chair	
William Raggio	
Michael Amerian	

Staff:

Personnel:	David Luther	Natasha Gameroz
	Alejandrina Basquez	Esther Chang
	Steven Montagna	

City Attorney: Curtis Kidder

1. CALL TO ORDER

The meeting was called to order at 9:06 a.m.

2. PUBLIC COMMENTS

There was no public comment.

3. MINUTES

A motion was made by Mr. Mumma, seconded by Mr. Amerian, to approve the July 17, 2012 minutes; the motion was unanimously adopted.

4. GREAT-WEST QUARTERLY PLAN REVIEW

Ms. Lisa Tilley and Mr. Gary Robison presented Great-West's Plan review for the quarter ending June 30, 2012.

Ms. Tilley indicated there was a 59% increase in deposits and the Plan was continuing to see growth in Roth balances, with a 55% increase since last quarter. Mr. Mumma asked if there was any particular reason for the contribution increases. Ms. Tilley indicated there were several large rollovers into the Plan. Ms. Tilley stated that the most assets were previously allocated to stable value, however, after the implementation of recent investment menu changes, the DCP Large-Cap Fund now held the most assets due to the aggregation of the large-cap funds.

Ms. Tilley indicated there was a slight dip in the total number of participants. She indicated however that there was an increase in contributing participants, and that new members were also being added at a consistent rate, with 227 new members added this quarter.

Ms. Tilley indicated that for the investment menu update, assets in all outgoing investment options were moved into the new DCP Large-Cap, Mid-Cap and Bond Funds. She indicated that the assets in the funds that continued as underlying investments of the new DCP funds were technically moved for recordkeeping purposes. She indicated Great-West worked with the individual investment managers to mitigate any negative effects within the funds during the transition.

Mr. Mumma asked how many people were retired and had not yet started drawing down on their account. Ms. Gameroz indicated approximately 70% of that population was not taking distributions. Mr. Montagna stated that it appeared that most were not using their accounts as a supplemental retirement income stream as only about 20% were receiving periodic payments. Mr. Canzano asked whether participants who were 70½ could still contribute to the Plan as an active employee while being required to take minimum required distributions. Mr. Robison stated participants would not be required to take the minimum required distribution while still active; however, they would need to do so once they separate from service.

Ms. Tilley indicated that rollovers into the Plan were exceeding rollovers out of the Plan for the first time. She stated the top four firms receiving Plan rollout money had changed this quarter: Wells Fargo, Fidelity, Merrill Lynch, and Pershing; as compared to the previous quarter: Schwab, Prudential, TD Ameritrade, and Chase.

Ms. Tilley indicated hardship numbers were down. She stated there were 145 hardships processed last quarter, while this quarter only 91 hardships were processed, of which 82 were approved. She indicated that the distribution reasons continued mainly to be due to prevention of foreclosure/eviction.

Mr. Robison reviewed local account activity, including statistics regarding meetings, participant in-person contacts, and phone contacts.

5. BOARD REPORT 12-44: TAX COUNSEL

Mr. Montagna stated there was an opportunity to obtain tax counsel for the Plan as a result of a Request for Proposals (RFP) issued on behalf of the defined benefit (DB) plans. He stated the contract would be between the City Attorney and the firm(s). He stated staff would have the opportunity to assess whether the firms had appropriate governmental 457 plan experience. He indicated staff would return to the Board with a recommendation.

Mr. Kidder stated the outside counsel oversight committee of the City Attorney's Office would allow the Plan to piggy-back on the DB plan counsel contract. He stated there were eight respondents to the RFP. He stated he had reviewed responses and at least half of the firms have previously advised deferred compensation plans; he added that it was a possibility that some may have not specified this expertise in their responses. He stated that the City Attorney's Office would be conducting phone interviews with possibly all of the respondents, and that Plan staff would also participate in order to assess each firm's experience and expertise with regard to governmental 457 plans.

Mr. Moutes thanked staff and counsel as he believed that obtaining tax counsel would be highly beneficial to participants and staff. He stated that for future purposes, it might be prudent to allow provisions for access to tax counsel when it involves a small cost rather than having to come before the full Board for approval. Mr. Kidder indicated a scope of services could be prepared to encompass tax counsel services and pricing for larger projects and for the smaller, day-to-day questions. Mr. Raggio stated that Fire and Police Pensions staff utilized DB tax counsel quite a bit without going through the City Attorney's Office. He asked for clarification on whether staff had to refer questions through the City Attorney's Office. Mr. Kidder stated he believed that would be the most cost-efficient process as there may be questions that could be addressed in-house.

Mr. Canzano asked if the Plan would have the ability to utilize firms which had contracts with the DB plans, even if those were not specifically contracted for Deferred Compensation Plan services. Mr. Kidder indicated no. He stated that a recommendation would be made for one or two firms for the plan; if the selection(s) turned out to be unsatisfactory, potentially another firm could be pulled from the list, however, it was likely a new scope of services and contract would need to be drawn.

A motion was made by Mr. Mumma, seconded by Mr. Amerian, to receive and file staff's report; the motion was unanimously adopted.

A motion was made by Mr. Moutes, seconded by Mr. Raggio, to direct staff to participate in the selection process and return to the Board with a recommendation for further action; the motion was unanimously adopted.

6. HARDSHIP APPEAL CASE NO. 12-03

Ms. Gameroz stated a participant was appealing the denial of a hardship request, which was filed in order to pay the balance owed to an attorney for a dependent's legal bills. Ms. Gameroz indicated the dependent was also the sole beneficiary of the participant's account. Ms. Gameroz indicated that Great-West had denied the request as legal expenses were not a defined reason for which Great-West may approve hardship requests. She stated there were no IRS guidelines that prohibit the payment of legal bills and that the Board had approved a similar case in April 2007.

Mr. Mumma stated that if the participant's dependent was awaiting an appellate hearing, it indicated a verdict had already been rendered as it was being appealed. He asked whether the situation could still be considered "unforeseen" as staff indicated in its report that the event was unforeseen as the court had not yet reached a determination of guilt or innocence. Mr. Montagna stated the Board had previously considered similar cases, indicating that the Board had taken the position that if costs were incurred not by the participant but by a spouse or dependent, from the participant's point of view, it was an unforeseen event as there was no control over the matter. Mr. Canzano indicated he believed the report established a clear emergency and an unforeseen need for the hardship withdrawal. Mr. Amerian asked how long the case had been on-going. Ms. Gameroz indicated it had been about 18 months. Mr. Moutes stated he wanted to clarify that the Board was considering the event as unforeseen because it was unforeseen to the applicant, and not due to waiting for a determination of guilt or innocence.

A motion was made by Mr. Moutes, seconded by Mr. Cannon, to approve the appeal of the hardship in Case No. 12-03; the motion was unanimously adopted.

The Board recessed for a break at 9:53 a.m. The meeting was reconvened at 10:02 a.m.

7. BOARD TRAINING: ADDING VALUE

Ms. Gameroz indicated the standard catch-up option allowed a participant to contribute up to $34,000 annually for three consecutive years, within three years of normal retirement age. She indicated that to be eligible for standard catch-up, a participant needed to have an unused balance, explaining that there had to have been years where the participant did not contribute up to the maximum annual limit. She stated a participant could only additionally contribute up to that unused balance, up to the standard catch-up limit. She indicated that a participant cannot be enrolled in standard catch-up in the year one retires, although it could be that the participant ends up deciding to retire early. She stated that when participants turn 50 years of age, the system automatically applies the over 50 catch-up limit, which is $22,500. She stated participants would need to actively enroll to participate in standard catch-up. She indicated that there were approximately 7% of Plan participants that were participating in standard catch-up. Mr. Canzano clarified that the unused balance was added to the regular limit of $17,000, and not to the age 50 and above limit of $22,500.

Ms. Gameroz indicated another option participants had was to defer their accrued leave payouts for vacation, sick (100% only), and overtime upon retirement. She noted that DWP employees do not get paid out for sick time, and Police sworn employees receive their payouts over two paychecks – the first for vacation and sick, and the second for overtime. She stated participants had the ability to defer up to their applicable annual contribution limit, with a choice of contributing pre-tax and/or post-tax dollars. She stated that as of June 30, 2012, there were 121 employees that had elected accrued leave deferrals, which constituted approximately 23% of employees retiring. She stated that participants would need to fill out a form to request the accrued leave deferral; she indicated the participant would need to identify their retirement date, and staff would calculate how much the participant would be eligible to defer from their payout(s).

Ms. Gameroz stated participants could rollover funds from an outside IRA, 401(k), 457, 401(a), or 403(b); she indicated the only exception to this rule would be the Roth IRA. Mr. Canzano asked if it might be anticipated that the IRS may allow for the rollover of Roth IRAs. Ms. Gameroz indicated that minimum required distributions (RMDs) are not required in Roth IRAs, which could be a reason the IRS chose not to allow a rollover as the RMD applied to 457 plans. Ms. Tilley indicated she had not heard anything, but would reach out internally for an update.

Ms. Gameroz added that rollovers do not become a 457 account. She indicated rollover funds continue to hold the requirement of the money type. She indicated, for example, that 401(k) money that is rolled over will allow withdrawal while an employee is active, if the participant is willing to pay taxes on the amount and the 10% early withdrawal penalty; 457 funds are not allowed to be withdrawn until separation from City service. Mr. Raggio asked why participants would rollover outside funds. He asked whether the Plan offers lower fees, and/or participants desire to consolidate their funds. Ms. Gameroz indicated it was mostly for both of those reasons, and stated that there is a $25 annual maintenance fee for rollover funds. Mr. Moutes commented that he had learned of one participant who wanted to ensure their 401(k) money was moved into the 457 plan in case the previous employer became insolvent.

Ms. Gameroz indicated distributions could only be given to participants that were removed from payroll. She stated there were mandatory tax withholdings; 20% for federal taxes and state taxes where they were required; she stated in California, it was a 2% withholding. She stated a participant could also opt to withhold additional taxes. Mr. Raggio asked if taxes were withheld for each state. Ms. Gameroz indicated if the state did not require withholding, it was not taken. Mr. Mumma asked if any foreign taxes were withheld. Ms. Tilley stated that Great-West does get a tax table loaded into the system for all the states; she indicated there were some country codes as well.

Ms. Gameroz stated distributions for active employees could only be approved for purchases of service credit, de minimus withdrawals, hardship request payouts, and loans. She stated no taxes are withheld for service credit purchases or loans. She stated distributions were given as a full lump sum, partial lump sum, or as periodic payments. She stated approximately 70% of retirees have not elected to take a distribution. Mr. Montagna indicated participants could in some instances be electing to leave an inheritance.

Mr. Moutes asked what safeguards were in place for distribution fraud. Ms. Tilley stated the online process would still require a final approval step which is approved by the Plan. Mr. Moutes indicated he was concerned with payments being received by another party when the participant was deceased. Mr. Moutes indicated LACERS contracts with two companies that crosscheck LACERS participants against other sources, such as Social Security, to identify any deaths or powers of attorney. Mr. Mumma asked what the Plan's legal liability would be in regards to this matter. Mr. Kidder indicated he would need to research this topic. Mr. Montagna indicated this might be a longer term project; he indicated that staff would discuss with Great-West as the Plan continues to mature. Mr. Canzano suggested some discussion at the NAGDCA conference. Mr. Moutes added that in addition to the quarterly checks against different sources, LACERS also prepared an annual mailing to retirees over a certain age to verify that participants were still able to receive their retirement money; he indicated staff would follow up if there was no response received. Mr. Raggio stated Pensions also conducts checks against different databases, in addition to an audit for those participants over 90 years of age. He stated that Pensions hires investigators to ensure that participants were receiving the money and/or appropriately taken care of. Ms. Gameroz stated staff would work with the DB plans to obtain a list to crosscheck against Plan participants.

8. BOARD REPORT 12-45: STAFF REPORT

Ms. Chang indicated staff had compiled data for the month of July, and stated the recommendation was to receive and file the report.

Mr. Raggio asked for the timeframe within which hardship appeals would reach the Board. Ms. Gameroz stated that it would depend on the timing of when the participant submitted his or her appeal. She stated if the participant submitted early in the month, staff would likely be able to calendar the appeal within the month; however, if the participant submitted an appeal mid-month, it would likely go before the Board the following month. She stated that the initial request the participant submits to Great-West would be processed and reviewed by the record keeper in about a week. Ms. Chang added that the initial review time can also depend on how quickly the participant provides any backup documentation Great-West requested.

Mr. Mumma asked about a pending project regarding the Pension Savings Plan accounts. Ms. Gameroz indicated the objective of the project was to first identify how many participants had both a PSP and DCP account, and then to try and consolidate these two accounts for the affected participants.

A motion was made by Mr. Amerian, seconded by Mr. Mumma, to receive and file staff's report; the motion was unanimously adopted.

9. REQUESTS FOR FUTURE AGENDA ITEMS

Mr. Raggio stated Pensions had a custodian bank that tracked class action lawsuits affecting the department's investment options. He asked how the Plan tracked any class action lawsuits involving Plan investment fund managers and how any settlement received was transferred to the participants. Mr. Devon Muir, of Mercer Investments, indicated the City's investment options were mostly mutual funds or commingled funds with a mutual fund board that would track this type of action. He indicated these boards would act on the behalf of the participants invested in the fund. He stated any settlements received would be reflected in the net asset value (NAV) of the fund, and would look to be a momentary spike in performance. He stated this may be a discussion to have with a custodian bank should the Plan seek to broaden the use of separate accounts.

Mr. Canzano asked whether there were more options to defer additional money, stating he was aware the County of Los Angeles had both a 457 and a 401(k) option that allowed county employees to essentially contribute double the amount City employees were able to. Mr. Montagna stated that the window to add a 401(k) plan for governmental entities had closed, however, he indicated staff would have an internal discussion.

10. NEXT MEETING DATE – SEPTEMBER 18, 2012

11. ADJOURNMENT

A motion was made by Mr. Cannon, seconded by Mr. Amerian, to adjourn the meeting; the motion was unanimously adopted. *The Board adjourned at 11:09 a.m.*

Minutes prepared by staff member Esther Chang.