

**CITY OF LOS ANGELES
BOARD OF DEFERRED COMPENSATION ADMINISTRATION**

ADOPTED MINUTES
SPECIAL MEETING OF JUNE 29, 2022
CONDUCTED VIA TELECONFERENCE

BOARD MEMBERS

Present:

Thomas Moutes, Chairperson
Joshua Geller, Third Provisional Chair
Dana H. Brown
Baldemar J. Sandoval
Jeremy Wolfson

Not Present:

Raymond Ciranna, Vice-Chairperson
Robert Schoonover, First Provisional Chair
Neil Guglielmo, Second Provisional Chair
Linda P. Le

PERSONNEL DEPARTMENT STAFF

Daniel Powell, Senior Personnel Analyst II
Mindy Lam, Benefits Analyst
Eric Lan, Benefits Analyst

OFFICE OF THE CITY ATTORNEY

Charles Hong, Deputy City Attorney IV

Voya Financial

Deirdre Jones, Vice President, Strategic Relationship Management
Kelly Montgomery, Client Relationship Manager
Drew Russell, Director of Strategic Initiatives
La Tanya Harris, Registered Representative

MERCER INVESTMENT CONSULTING

Ana Tom-Chow, Associate
Peter Ebsen, Associate

1. ORAL REPORT FROM THE CITY ATTORNEY'S OFFICE

Mr. Hong presented this report and provided the following highlights:

- At its April 19, 2022 meeting, the Board requested a report on *Lexin v. City of San Diego* as it concerns fiduciary liability.
- The case focused on the charge of underfunding of the City of San Diego's employment retirement system.
- In 2002, the Board of San Diego's Employees' Retirement System (ERS) approved a proposal to modify San Diego's pension funding plan, while expressing concern about potential liability protections.

- The fiduciary council of the Board also noted the fiduciary concern and requested that City Council pass or adopt indemnity for all Board members who gave approval to the spending plan modification.
- On November 18, 2022, the San Diego City Council unanimously adopted a resolution to indemnify the Board.
- In May of 2005, the San Diego District Attorney charged the Board members with felony violation of Section 1090 of the California government code on the grounds that the Board was financially interested in the pension funding modification.
- The Board was then required to hire their own counsel in their defense.
- The Board's defense was to dismiss the criminal complaint on the grounds that Section 1090 was not applicable to the situation, which was ultimately the Supreme Court's decision.
- The Supreme Court determined that the Board's financial interest shared with the Board's constituency does not present dangers to the state's conflict of interest law.
- The members of the Board incurred personal expenses in their defense and consequently sued the City of San Diego to recover the costs.
- The Court determined that City Council implicitly agreed to defend the Board against civil and criminal claims arising from its funding approval based on the City Council's adopted resolution.
- The City of San Diego was found responsible for reimbursing the Board members for the cost of their defense.
- The case clarifies that public entities, such as the City of Los Angeles, would be obligated to assume the cost of defense for its employees in a criminal or civil matter, but is contingent on the facts and circumstances of the action of the employee and the action they face in a criminal or civil setting.

Board Member Comments/Questions & Responses:

Mr. Moutes noted the circumstances around the Lexin v. City of San Diego case, such as the district attorney, had an impact. He also indicated that the Board requested this report so that all Board members understand the scope of their roles and responsibilities.

Mr. Wolfson asked about the importance of precedents for future outcomes. Mr. Hong noted that the case reaffirmed Sections 995 and 995.8 and explained the City's obligation to its Board members and to its employees, and what its obligation is not.

2. CALL TO ORDER

Mr. Moutes called the meeting to order at 10:17 a.m.

3. PUBLIC COMMENTS

There were no public comments.

4. MINUTES

Board Action:

A motion was made by Mr. Geller and seconded by Mr. Wolfson, to approve minutes of the June 7, 2022 special meeting of the Board; the motion was unanimously adopted by the Board.

5. BOARD REPORT 22-37: DETERMINATION REGARDING TELECONFERENCING OPTION FOR BOARD MEETINGS PURSUANT TO ASSEMBLY BILL 361

Board Member Comments/Questions & Responses:

There were no comments/questions from the Board.

Board Action:

A motion was made by Mr. Geller and seconded by Mr. Wolfson, that the Board adopt the attached Resolution and find, pursuant to Section 54953(e)(1)(B)-(C) of the California Government Code, as amended by Assembly Bill (AB) 361, that due to the ongoing COVID-19 State of Emergency (COVID Emergency) proclaimed by the Governor on March 4, 2020, conducting Board meetings in person without continuing to provide a teleconference and/or videoconference option for the Board members and the public, would present imminent risks to the health or safety of attendees; the motion was unanimously adopted by the Board.

6. BOARD REPORT 22-38: DCP PROJECTS & ACTIVITIES REPORT FOR MAY 2022

Presentation Highlights:

Mr. Powell introduced the report and provided the following highlights:

- The City Council Personnel, Audits, and Animal Welfare Committee approved the DC Plan Manager exemption at its June 17, 2022 meeting, and full City Council approved the exemption at its June 24, 2022 meeting.
- The Office of the City Administrative Officer (CAO) asked the DCP staff to research the possibility of implementing an employer match. Staff began preliminary discussions with its consultants and Voya, and will present a report back to the Board.
- Voya and Schwab rolled out a new single sign-on feature for Self-Directed Brokerage Account participants.
- The NAGDCA conference registration deadline is July 26, 2022.
- Phase 1 of the human resources and payroll (HRP) program, Workday, was launched and only included human resources components. Staff quickly resolved a temporary implementation error that impeded staff's ability to make changes to contributions.
- Staff is looking to fill the newly reallocated Senior Benefits Analyst II position via pay grade advancement opportunity, transfer opportunity, or in-lieu opportunity.

Board Member Comments/Questions & Responses:

Mr. Geller asked which entity was inquiring about the DCP employer match. Mr. Powell noted that the most recent request originated from the CAO's Employee Relations Division.

Mr. Moutes asked if staff needed to receive approval from the Mayor's Office for the Board and staff's travel plans for the NAGDCA conference. Ms. Lam noted that staff already submitted the request to the Personnel Department who will submit it for the Controller's approval for registration payment. Mr. Moutes indicated a potential disconnect between the Board as a

fiduciary while still needing to seek the Mayor's office for approval for travel. Mr. Powell stated that staff will note the issue and report back to the Board.

7. PLAN ADMINISTRATOR QUARTERLY REVIEW: MARCH 31, 2022

Presentation Highlights:

Ms. Montgomery, Mr. Russell, and Ms. Harris presented the report and provided the following highlights:

- Page 3 – DCP Assets were over \$8.9 billion with 50,849 participants with a balance. Participants with loans decreased to 11,672 participants.
- Page 4 – Schwab SDBO Single Sign on feature was launched.
- Page 7 – Overall growth from the first quarter of 2021 is seen with participants' average balance increasing to \$175,261.
- Page 8 – The DCP showed a positive net cash flow of \$15 million.
- Page 9 – Top three investments are Stable Value, Schwab Brokerage, and DCP Large Cap fund.
- Page 11 – 19,810 participants have only one investment, primarily in the Aggressive Portfolio.
- Page 12 – 12,316 participants have chosen a single portfolio, and over 1,100 individuals have chosen to invest in more than one portfolio.
- Page 13 – There were over \$57 in partial, installment, or full distributions in the quarter.
- Page 14 – The pie chart shows the reasons participants take Unforeseeable Emergency Withdrawals.
- Page 15 – There were 366 rollovers for \$51.6 million.
- Page 17 – A total of 382 new accounts opened in the quarter for a total of 3,391 accounts.
- Page 19 – Quarter 1 had a total of 10,000 personalized financial wellness messages to drive positive behavior to encourage participants to increase their retirement readiness.
 - The open rate of 9% is higher than the DCP's peers in the governmental space.
- Page 20 – DCP had an upward trend of participants logging in to their accounts, an area that Voya will continue to monitor.
- Page 21 – Participants who use the financial wellness assessment typically have a higher savings rate at 10.3%.
- Page 22 – Voya and staff continue to execute and report on 2022 communications to improve participation, contributions, asset retention, and distributions.
- Page 25 – Total calls are at 3,386 for the local counselors, with an increase in enrollments.

Board Member Comments/Questions & Responses:

Mr. Moutes asked if the current economic situation might result in higher numbers of loans. Ms. Montgomery stated that it is likely that loans will trend upwards, and noted that Voya will monitor loan activity and provide an update to the Board during the next TPA presentation.

Mr. Wolfson asked if the DCP provides funding for the Schwab service, or if it is paid by the individual. Mr. Powell indicated that the cost is borne by participants who use the brokerage

account. Mr. Wolfson noted the increased numbers of participants enrolling in Schwab and noted that the DCP may investigate whether the increased utilization may offer any benefits to the City.

8. REQUESTS FOR FUTURE AGENDA ITEMS

Mr. Wolfson noted that due to Mr. Ciranna's upcoming retirement, the Committee assignments will need to be finalized. Mr. Moutes stated that he will discuss with Mr. Ciranna and determine committee assignments.

9. NEXT MEETING DATE

A regular meeting was noted for July 19, 2022, at 9:00 a.m.

10. ADJOURNMENT

The meeting was adjourned at 10:57 a.m.

Minutes prepared by staff member Eric Lan.