

CITY OF LOS ANGELES
BOARD OF DEFERRED COMPENSATION ADMINISTRATION

ADOPTED MINUTES
REGULAR MEETING JULY 21, 2015 - 9:00 A.M.
700 E. TEMPLE STREET, ROOM 350

BOARD MEMBERS:

Present:

John R. Mumma, Chairperson
Michael Amerian, Vice-Chairperson
Cliff Cannon, First Provisional Chair
Thomas Moutes, Second Provisional Chair
Raymond Ciranna, Third Provisional Chair
Wendy G. Macy
Don Thomas

Not Present:

Linda P. Le
Robert Schoonover

Staff:

Personnel:

Alejandrina Basquez
Steven Montagna
Alexandra Castillo

Esther Chang
Matthew Vong

City Attorney: Curtis Kidder

1. CALL TO ORDER

John Mumma called the meeting to order at 9:02 a.m.

2. PUBLIC COMMENTS

Retiree and former Board Chairperson Eugene Canzano welcomed Don Thomas, the newly elected Active DWP Participant Representative. He then extended his congratulations to Cliff Cannon for his re-election to the Board.

3. MINUTES

A motion was made by Mr. Cannon, seconded by Wendy Macy, to approve the June 16, 2015 Regular Meeting minutes; the motion was unanimously adopted.

Mr. Mumma moved the meeting forward to item 6.

4. BOARD REPORT 15-34: TRAINING – MAKING BOARD DECISIONS AND AVOIDING CONFLICTS OF INTEREST / BROWN ACT PLAN GOVERNANCE POLICIES & BYLAWS

Steven Montagna stated the Board had previously requested to receive training related to the Brown Act as it relates to the conduct of the Board and how it manages its meetings. He indicated that in addition to the Brown Act training being presented to the Board, there would also be a discussion of the Plan's Governance Policies and Bylaws specifically related to the adopted code of ethics and the execution of RFP processes. He then deferred to Board Counsel Curtis Kidder, who presented information regarding the Brown Act.

Mr. Kidder stated the Brown Act was adopted in 1951 with the intent to require actions of a governmental body, including its deliberations and discussions, be transparent and subject to public review and scrutiny. He stated that for purposes of the Brown Act, a meeting is constituted when there is a majority of a Board or committee that meets at any time or place to discuss items within its purview. He stated this included serial meetings, which is a series of conversations among Board members where discussion or deliberation on an item of business is discussed. He indicated this does not necessarily mean there is quorum at one location, but could happen in a series of locations and discussions where a quorum of the Board or committee reaches a consensus on an item. He indicated serial meetings could be conducted through various forms of communication including over the phone, text or e-mail.

Mr. Kidder described the different types of meetings a Board may convene. He stated a regular meeting is usually set by a formal action of the Board as to the place, date and time it would occur. He stated regular meetings require 72 hours notice with posting of an agenda. He stated another type of meeting could be a special meeting, which requires 24 hour notice with posting of an agenda. He stated the Brown Act does not define the purpose of special meetings, but he noted they are typically used for workshops or for single topics to allow for a focused discussion on an item. He stated a third type of meeting is an emergency meeting which are usually held in response to a fire, earthquake, or other catastrophe.

Mr. Kidder stated that agendas are required to identify the location and time of a meeting and provide brief descriptions of each item of business. He indicated the objective of the printed description is to inform people of what would be discussed so as to allow them enough information to make the decision of whether they would want to come and participate in the meeting. He stated there were two ways to add an item to a published regular meeting agenda. He stated a special meeting could be called, which could be held before or after a regular meeting. He stated there were also situations when an item is brought to the attention of the Board or staff after the posting of the agenda, which could possibly cause undue prejudice to the agency if action is not taken on the item in a timely manner. He stated this allows for the item to be added to the agenda as an emergency item.

Mr. Kidder stated the posting of an agenda is important in that if it is not done in a timely manner, it could potentially render Board actions subject to invalidation. He reviewed the rules regarding voting and stated that a Board must report any actions taken and the votes and/or abstentions of any member present.

Mr. Kidder discussed the rules governing a closed session. He stated closed session votes must be publicly reported if an action is taken during closed session. He stated closed sessions could include such matters such as dealing with anticipated and pending litigation, property negotiations, labor negotiations and items regarding public employment. He stated the Brown Act allows the Board to also go into closed session to discuss hardship withdrawals. He noted that matters discussed within closed session cannot be disclosed without Board authorization.

Mr. Kidder stated there are serious repercussions for violating the Brown Act and indicated it can be a misdemeanor if there is deliberate intent to violate or shield the public from obtaining public information. He stated if the Board has acted on an item that was not properly placed on the agenda, a citizen could submit a "demand to cure" letter within 90 days of the alleged violation. He indicated the Board then would have 30 days to cure by re-noticing the item in compliance with the Brown Act and retake the action. He stated if the Board cures the action, the complainant is prohibited from taking any civil action. He noted that if the complainant prevails in court, not only would the transaction be voided, but he or she would be entitled to an award of attorney fees and costs.

Mr. Thomas asked if Board members could send each other information regarding research for an upcoming Board item without it constituting a meeting. Mr. Kidder indicated as long as it was a one way communication with no additional discussion and/or deliberation, it would not be prohibited by the Brown Act. He stated such a communication could easily evolve into a serial meeting if Board members responded to one another, so it was advised that any such correspondence include specific instructions to not respond to avoid an occurrence of a serial meeting.

Mr. Cannon asked if there were any circumstances when accommodations would have to be provided to the hearing impaired in an open meeting. Mr. Kidder stated that public meetings must be ADA accessible, which would include making accommodations for people with hearing impairment.

Mr. Thomas asked if a quorum of a committee also constituted a meeting. Mr. Kidder confirmed that it did.

A motion was made by Thomas Moutes, seconded by Mr. Thomas, to receive and file training information regarding the Ralph M. Brown Act; the motion was unanimously adopted.

Mr. Montagna proceeded to the Governance Policies and Bylaws ("Bylaws") training component of the presentation. He stated the goal of the Bylaws was to improve

transparency and accountability and ensure the Board and staff were held to the highest standards of ethical conduct.

Mr. Montagna highlighted the key sections and referenced that the Bylaws set an ethical standard that go beyond the legal minimum required by law. He noted it demonstrated the Board seeks to uphold transparency in the decision making process, to make it evident to the public that all the decisions made by the Board are in the best interest of Plan participants. He noted that all of the discussions related to Plan procurements are to be held in open meeting with the Board. He stated outside consultants are only utilized to ensure that the Board and staff have access to additional industry expertise. He indicated that once an RFP is issued, all questions and responses are required to be in writing and are posted publicly, which staff considers a best practice. He stated all selections of contractors are made at the public meetings, and the materials that represent the basis upon which the review panel are making their recommendations are also public information.

Mr. Montagna explained that the Bylaws also address the issue of contact with vendors during the procurement process. He stated the core principle is that Board members and staff agree to not meet or privately communicate with any vendors that may be interested in responding to any procurement or service being sought by the Board at the time. He stated if prohibited contact does take place within the designated window for a particular procurement process, it would disqualify the Board or staff member from further taking part in the search process. Mr. Mumma stated that the heads of the City's three pension systems currently sit on the Board and deal with vendors that may also be involved with the Deferred Compensation Plan's procurement processes. He asked for clarification of whether they were allowed to meet with the same vendor if they were discussing business unrelated to the Plan. Mr. Montagna stated the Bylaws did not bar all communications with prospective vendors, only discussions regarding the services that are being procured under the Plan.

Mr. Montagna noted that when an RFP window has opened, if a Board member or staff is approached by a vendor in any context to discuss the procurement process, the best course of action would be to politely indicate to the vendor that the preference would be to not engage in the conversation. He provided language for potential responses. Mr. Moutes asked if the Board had a policy regarding attendance of a vendor sponsored event at a conference especially when there was an RFP open for that particular kind of service. Mr. Montagna indicated that issue was not addressed specifically in the Bylaws. He noted however that for NAGDCA, the organization had discontinued the practice of allowing vendors to sponsor specific events at the NAGDCA annual conference to better avoid this type of potential conflict. He stated that type of situation could come up in other conferences, however, and noted the Board and staff should be aware of applicable gift limits and identify the amounts attributed to any such events. Mr. Kidder stated that gifts over \$50 have to be reported and gifts worth over \$460 cumulatively on an annual basis from any one vendor is prohibited. He stated attendees should be aware of the gift implications when attending those types of events. Mr. Montagna stated in order to have a completely neutral and merit driven process, staff

recommended that Board members refrain from attending any events sponsored by current and/or potential vendors as long as they were in the midst of the Third Party Administrator (TPA) RFP process. Mr. Mumma echoed Mr. Montagna's recommendation.

Mr. Montagna stated the importance of communicating with Plan participants during the TPA RFP search process. He stated it allowed the Plan to remain transparent about its procurement process and would also allow participants to engage with the Plan and provide any feedback.

Mr. Mumma stated that no current Board members were present when issues occurred during the 2004 RFP process. He asked that Mr. Montagna briefly review what had occurred at that time. Mr. Montagna stated that in 2004, the Board issued a RFP for the TPA contract, and an evaluation panel made a recommendation to the Board for the selection of the highest scoring respondent. He indicated that the Board did not approve the recommendation of the evaluation panel and selected the respondent ranking second highest. He stated the latter firm had proposed higher fees which were being justified by offering a service that was not requested in the RFP. He stated a number of participants were not pleased by this decision. He indicated the City Council eventually became involved in the procurement process and requested the CAO investigate to see whether the procurement process had been conducted appropriately. He stated the CAO review ultimately recommended that the original RFP search be cancelled and a new process be conducted. He indicated that while the Council does not have authority over a Board decision, Council does have the authority to veto the Board's decision, which it chose to do. He stated the firm that had been initially selected subsequently filed a lawsuit, which was ultimately dismissed.

Mr. Montagna stated there were changes to the Board makeup at the time, and the Board took the Council's recommendation and elected to cancel the RFP and restart the process. He indicated a special task force of individual plan participants was formed to review the Plan's governance structure. He stated recommendations from that task force resulted in a change that created the nine-member Board structure that currently exists. He stated another task force was charged with developing recommendations to improve the RFP process.

Mr. Thomas asked if there was a policy in place that would prevent the vendor from including services that were not requested in the RFP. Mr. Montagna stated that in the design of the RFP, it is staff's responsibility to make clear the services being requested and the scoring methodology being used.

Alejandrina Basquez stated staff takes strides to be clear in the type of services being requested. She indicated that if vendors do propose additional services, they would need to identify the costs of these additional services separate from the fee proposal for services indicated in the RFP. She stated this is done so that staff can compare vendors evenly and fairly across the board. She stated that vendors who bundle their services in

such a way that deviates from what was requested in the RFP could potentially be deemed non-responsive.

A motion was made by Mr. Moutes, seconded by Michael Amerian, to receive and file training information regarding Plan Bylaws, specifically as they relate to conflicts of interest and the procurement process and contacts with prospective vendors during procurement processes; the motion was unanimously adopted.

5. BOARD REPORT 15-35: REQUEST FOR PROPOSAL – THIRD PARTY ADMINISTRATOR (TPA)

Alexandra Castillo stated she would be the project lead for the TPA RFP process. She stated her knowledge of the importance of executing proper search processes, one that ensures transparency, objectiveness, as well as one that communicates to participants. She stated she was eager to work with the Board, the Personnel Department team and consultants on this procurement process. She then began to review each item in the report.

Ms. Castillo presented the Board with a Master Procurement and Contracting schedule and stated staff would like to include the TPA and Consulting search processes. She asked that the Board approve and adopt the revised schedule.

A motion was made by Mr. Amerian, seconded by Mr. Cannon, to approve a revised Master Procurements and Contracting Schedule to add TPA and Consulting service provider relationships to its previously adopted Investments search schedule; the motion was unanimously adopted.

Ms. Castillo stated that staff recognizes it is the Board's decision to proceed with a procurement search for services. She stated the current TPA contract would be in its 10th year in 2016. She stated that based on staff analysis in conducting discussions with the Plan's consultant, staff believes it is prudent to conduct a new search. She indicated there have been several changes in the TPA community and the Plan itself. She stated the Plan has a clear perspective of its mission and its intent to be a leader in governmental defined contribution plans. She asked that the Board approve staff's recommendation to move forward with the proposed TPA procurement process in 2015/2016.

A motion was made by Mr. Moutes, seconded by Mr. Amerian, to approve moving forward with a TPA procurement in 2015/2016 with a target implementation date for a new service provider contract to be in place by January 1, 2017; the motion was unanimously adopted.

Ms. Castillo stated consulting and TPA contracts are currently established for three year terms. She stated that staff believes it is in the best interest of the Plan to request from City Council the authority and approval to enter into five year contracting terms for

consulting and TPA contracts as it does for its investment management contracts. She explained the benefits of longer contract terms, which include promoting favorable pricing terms and a greater willingness on the part of vendors to invest in resources for the City's Plan. She stated it also mitigates disruption to participants and reduces consulting costs.

Ray Ciranna asked for clarification on whether the Board would be requesting a permanent change to its authority to enter into five-year contracts or if this was specifically for the TPA RFP. Mr. Montagna affirmed staff would be requesting this authority for all Plan contracts going forward. Mr. Thomas asked if the Board would retain the right to offer shorter contracts. Mr. Montagna stated that was correct and noted that even within the execution of a five-year contract, a contract would include provisions which allow the Board to cancel the contract if it determined a compelling reason existed to do so before the end of its term as long as there was appropriate notice.

A motion was made by Mr. Cannon, seconded by Ms. Macy, to approve requesting City Council approval to expand Board authority to enter into five-year contracts for Deferred Compensation services to include TPA, consulting and all other administrative services, and instruct staff to return with a proposed report/recommendation to Council; the motion was unanimously adopted.

Ms. Castillo reported on the TPA RFP development process and stated three key elements would be the areas of focus: developing appropriate participant communication, updating RFP review criteria, and establishing guidelines for vendor contacts. She stated staff would be reporting back to the Board on a communication outreach plan to participants that is geared toward informing them of this RFP process.

Mr. Mumma asked what the Plan was expecting in terms of feedback and how the Plan would conduct the participant outreach. Mr. Montagna indicated staff wanted to take some time to define what would be part of the process. He stated there were a number of options which include conducting a survey or a focus group.

A motion was made by Mr. Ciranna, seconded by Mr. Thomas, to approve moving forward with the proposed tentative calendar for TPA RFP development; the motion was unanimously adopted.

Mr. Montagna indicated staff desired to distribute a pledge form which would be reflective of the principles that were outlined in the code of ethics within the Plan's Bylaws, related to procurements. He noted however that staff was not able to finalize the form prior to the Board meeting date. He stated that once the form was finalized, it would be transmitted to the Board. Mr. Cannon asked if the document needed to be signed by Board members and if it was required to be signed every time the Board initiated an RFP process. Mr. Montagna stated staff would like to institutionalize this as best practice and stated signing the pledge form would be specific for this process and indicated this would then be repeated prior to each initiation of a procurement. Mr.

Mumma indicated motion 5(e) would be addressed at a future meeting when staff finalizes the document.

Mr. Montagna stated staff recommended an issuance of an RFI to assess TPA interest in administering the Pension Savings Plan (PSP) on a stand-alone basis, separate from administration of the Deferred Compensation Plan. He stated staff also wanted to assess whether there were vendors interested in administering the recordkeeping portion of the PSP without being awarded the investment management services related to the PSP. He stated the information collected would assist the Personnel Department in making its decision on what would be appropriate when initiating the RFP process for the PSP and whether or not to bundle services with the Plan's TPA RFP.

Mr. Thomas asked if there were any benefits to have the PSP administered alongside the DCP. Mr. Montagna stated it made transactions such as rollovers of funds from the PSP to the DCP much easier and convenient to execute; he indicated there may also be pricing advantages. Mr. Mumma asked for further clarification on the Board's authority over the PSP. Mr. Montagna indicated that under the City's Administrative Code, the PSP is under authority of the Personnel Department General Manager with the Board acting in an advisory role only. Mr. Mumma asked if it was mandated that the funds for PSP participants be invested in a single option as it was currently and whether there was an option to elect more risk. Mr. Montagna stated that under the regulations contained in Internal Revenue Code 3121 governing PSP plans, there is special provision which requires the plan to provide a guaranteed rate of return. He stated it is interpreted to mean that the PSP money cannot be invested in something where the participant would be at risk to lose their principle.

A motion was made by Mr. Cannon, seconded by Mr. Thomas, to receive and file an update regarding the Personnel Department's plans for exploring options for third-party-administration of the Pension Savings Plan; the motion was unanimously adopted.

6. BOARD REPORT 15-36: TARGETED ENROLLMENT INITIATIVE UPDATE

Esther Chang provided the Board with an update of the Plan's targeted enrollment initiative for the Department of Transportation (DOT). She stated staff had identified approximately 660 DOT employees who were not participating in the Plan but were eligible to do so. She presented a coordinated timeline for the initiative which indicated the main focus of the campaign would occur around September. She indicated staff had reached out to DOT's personnel section to request support for encouraging DOT employees to participate in the Plan. She stated Empower staff had already made a presence at one of their DOT benefits fairs and would have a presence at mandatory safety meetings for their Crossing Guards.

Ms. Chang stated Empower staff would be reaching out to City Union publications in order to explore additional options of marketing the campaign. Additionally, she

indicated a communication would be sent from the General Manager of DOT to employees to encourage participation in the plan and announce outreach activities. She stated postcards identifying six future meeting dates would be disseminated to the targeted employee population and posters would be provided to supervisors to help market the campaign. She concluded her report by stating staff would be measuring enrollment results from July through the end of October.

Mr. Mumma noted the back of the postcard indicated there would be a prize giveaway, and asked what that entailed. Ms. Chang stated that staff was still discussing options, but noted that \$25 gift cards have been given out in the past for a previous campaign. Mr. Mumma asked about the source of funding for the gift cards. Ms. Chang stated the gift cards would be funded by the Plan's communications budget.

A motion was made by Mr. Cannon, seconded by Mr. Moutes, to receive and file staff's update regarding the Deferred Compensation Plan's Targeted Enrollment Initiative; the motion was unanimously adopted.

7. BOARD REPORT 15-37: AUTO ENROLLMENT PROGRAM (AEP) UPDATE

Ms. Chang stated the Board had previously approved the core provisions for the AEP at its January meeting. She also indicated changes to the Plan document incorporating the AEP had been adopted at its May meeting. She presented a timeline for the program and indicated the next steps would be to hold initial meetings with staff from the Office of the Controller as well as DWP payroll and set up discussions with Los Angeles Police Protective League representatives. She concluded her report by stating that staff would report back monthly on the progress of this project.

A motion was made by Mr. Amerian, seconded by Ms. Macy, to receive and file a report providing an update related to implementation of the Deferred Compensation Plan AEP; the motion was unanimously adopted.

Mr. Mumma moved back to item 4 of the agenda.

8. BOARD REPORT 15-38: STATUS OF DCP CONTRACTS AND PROCUREMENTS

Ms. Castillo presented the quarterly update to the Board regarding the status of current contracts and procurements. She stated staff was working on executing the contracts for Galliard, Mercer Investment Consulting, Segal Consulting as well as the Bank of the West. She indicated an additional update would be provided at the next Board meeting regarding execution of these contracts. Additionally she stated staff would be working on the procurement for the TPA services contract. She concluded by stating staff was preparing a report about the third banking provider for the FDIC Insured account, which would be presented at the August meeting.

A motion was made by Mr. Amerian, seconded by Mr. Moutes, to receive and file the quarterly report regarding the status of Deferred Compensation Plan contracts and procurements; the motion was unanimously adopted.

9. BOARD REPORT 15-39: PLAN PROJECTS & ACTIVITIES REPORT

Ms. Chang presented the monthly staff report and updated the Board on the status of pending Communications, Operations, Administration and Governance projects. She stated staff had finalized the 2nd quarter newsletter, which would be sent out at the end of the month. She indicated staff was also working on proposals for National Save for Retirement Week, which would officially occur from October 15th through the 24th.

Ms. Chang reported on operational projects and stated the Plan recently had a final fund change, which occurred on June 26th. She indicated the DCP International Fund was introduced and the passive component of DCP Small Cap Fund was updated. She stated there were no significant comments from participants to date regarding this recent fund change. She provided an update on the implementation of the in-plan Roth conversion and stated staff was currently working with Empower to clarify the procedural and operational details. She noted that an announcement would be incorporated in next quarter's newsletter and stated the participant website would also be updated to include a notice.

Ms. Chang stated staff continued to work on metrics projects related to the targeted enrollment initiative and periodically tracked enrollments by department. She indicated staff was also tracking different data points for departmental metrics efforts. She stated staff continued to work on the CAP rate and noted that staff met numerous times with the Controller's Office and the Personnel Department's Administrative Services Division, and would report back to the Board. She indicated the recently updated Plan Document was uploaded to the participant and Board websites. She concluded her report by stating that a letter was provided to the Board membership from the Board Chair to update Committee assignments.

Mr. Ciranna asked about the new law change, HR 2146, related to public safety officers and distributions taken at age 50. Ms. Chang stated that staff had a call scheduled with Empower to discuss the item and coordinate the communication of the new change in the law; she indicated staff was also working with Fire and Police Pension staff to try and collaborate on the communications.

Mr. Montagna noted there was a request for staff to meet with a Chinese delegation from the Chinese Ministry of Finance. He stated staff met and provided information to this group regarding the Plan and its methods of measuring success.

A motion was made by Mr. Amerian seconded by Mr. Cannon, to receive and file staff's update on Plan projects and activities during June 2015; the motion was unanimously adopted.

10. REQUESTS FOR FUTURE AGENDA ITEMS

Per Mr. Ciranna's request, Mr. Mumma asked that an update be provided regarding the future RFI for the Pension Savings Plan.

11. FUTURE MEETING DATES – August 18, 2015

12. CLOSED SESSION

Mr. Kidder stated no closed session was necessary and provided a brief update in open session. He indicated the court issued its opinion on the Bolan beneficiary case on June 29, 2015, which ruled in favor of the City and the Plan. He stated the City drafted and submitted an order pursuant to the direction of the court and indicated once the court approved the order, the petitioner would have 60 days to file an appeal. He stated the funds in the account would be held until the end of the appeal period and indicated that if no appeal was filed within this timeframe, the matter would be concluded and the funds would be distributed to the domestic partner, unless the Plan heard otherwise from the court.

13. ADJOURNMENT

A motion was made by Mr. Amerian, seconded by Mr. Thomas, to adjourn the meeting; the motion was unanimously adopted. *The meeting adjourned at 11:14 a.m.*