

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

MINUTES
MEETING OF NOVEMBER 30, 2004
700 E. TEMPLE STREET, ROOM 350
LOS ANGELES, CA 90012

BOARD MEMBERS PRESENT

Joya De Foor, Vice Chairperson
Sgt. Thomas A. Dawson, Ph.D.
Richard Kraus
Betty Porter
Javier Romero
Margaret Whelan

BOARD MEMBERS ABSENT

Shelley Smith, Chairperson

STAFF

Maryanne Keehn, Personnel
Steven Montagna, Personnel
Francois Verin, Personnel
Richard Bobb, City Attorney
Brian Cheng, City Attorney
Noreen Vincent, City Attorney

1. Call to Order

Ms. De Foor called the meeting to order and stated that the first order of business will be public comments. Ms. De Foor stated that there were two speaker cards turned in for Public Comments. Ms. De Foor called the first speaker, Mr. Gerald Lum to the podium.

2. Public Comments

Mr. Lum identified himself as a member of the Deferred Compensation Plan and said that he had several issues to bring forth. The first was a concern over the recent proposal to change from Great-West to another service provider. Mr. Lum said that such a significant change should be brought forth to the members either in a public forum or letters sent to each member. Mr. Lum said he found out through an employee newsletter and felt the Board should have communicated this information directly to the members. Mr. Lum said that his second concern was the change in fees charged by the new service provider. Mr. Lum stated that he believes

that the members would prefer to pay a lower fee and retain the same service as previously provided.

Ms. De Foor called the second speaker, John Hill, to the podium. Mr. Hill suggested that the Board develop a structured voting for the general membership. Mr. Hill said that the Board should, for example, poll all plan members regarding the implementation of the consultant's contract for plan service advice. Mr. Hill said that he would like to see the Board actively involve the participants in the decision making process and believes this will avoid various complaints about not receiving information.

Sgt. Dawson thanked the two speakers for their input and asked the City Attorney, Richard Bobb, if there was a process in place to allow the membership to choose who handles their money, or whether it was a Board function. Mr. Bobb responded by stating that at current time, it is a Board function as described in the Administrative Code. Mr. Bobb also stated that the Administrative Code also states that the membership should be polled to ascertain what the interests were for the membership as a whole. Ms. De Foor closed Public Comments.

3. Hardships

Ms. De Foor asked staff if there was anyone in the audience waiting for their request for hardship to be heard. Mr. Verin stated that there was no one in the audience waiting for a hardship review.

Ms. Whelan stated that since there were two new board members, it would be beneficial to give a brief overview of the hardship procedure and discuss each of the recommended for approval hardship cases. Ms. De Foor concurred and asked that the room be cleared for discussion of hardship cases.

Mr. Montagna gave a brief description regarding how hardships must meet the requirements set forth by the Internal Revenue and are usually routinely approved by the Board if it recommended for approval by staff. If staff is unable to recommend approval, staff requests that the hardship applicants appear before the Board to discuss and answer any questions that the Board may have regarding their hardship.

Sgt. Dawson asked for examples of criteria used to approve hardship requests. Mr. Montagna stated that the applicant must demonstrate an unforeseen and unavoidable event that led to a financial hardship. Mr. Montagna further explained that most of these cases involve either someone injured on the job or missing numerous days due to an illness. Sometimes this situation leads to a change in income, which causes delinquent mortgage payments, car notes, credit cards, etc.

Ms. De Foor asked if there wasn't any other questions, is there a motion to approve staff recommendation for hardship approval?

Ms. Whelan moved for approval of Hardship Case Number 04-26. Ms. Porter seconded the motion. The Board voted unanimously for approval.

Ms. Whelan moved for approval of Hardship Case Number 04-28. Ms. Porter seconded the motion. The Board voted unanimously for approval.

Ms. Whelan moved for approval of Hardship Case Number 04-27. Mr. Romero seconded the motion. The Board voted unanimously for approval.

4. Executive Session: City Attorney Briefing on Status of Litigation

Ms. De Foor indicated the start of Executive Session and cleared the room for a closed session. City Attorney, Mr. Bobb, stated that the City Attorney office reviewed and discussed the Executive Session agenda item and concluded that there was not a need for this item to be in closed session. Mr. Bobb said that the briefing is public record and there is no decision for the Board to make. Mr. Bobb further stated that since there is no decision for the Board to make, it would be a better practice to open the Executive Session to the public.

Ms. De Foor concurred, and resumed the Executive Session in a public forum. Mr. Bobb announced to the public that the Executive Session briefing would be opened to the public since the Board is not making a decision today.

Assistant City Attorney Mr. Cheng stated that there has been two lawsuits filed petitions for writs: one by Mr. Galvin, and one by Nationwide.

Sgt. Dawson expressed concern about this topic not being an agenda item, which would be in violation of the Brown Act. Mr. Bobb advised that since this item was listed on the agenda as a closed session item, the fact that the item was changed from a closed session to an open session item does not violate the Brown Act.

Mr. Cheng continued by stating that the lawsuits by Mr. Galvin and Nationwide are asserting the same thing – that the City Council's 245 action was unlawful. Mr. Cheng said that the City has motioned to dismiss Mr. Galvin's petition on November 24, 2004 and plans to respond to Nationwide's petition on December 13, 2004. Mr. Chang said that the City Attorney Office has been in discussion with Nationwide's counsel to

schedule both lawsuits together under the same judge, since the lawsuits are similar in nature.

Sgt. Dawson expressed a concern regarding the expiration of the current contract with Great-West, scheduled to expire on December 31, 2004. Ms. Vincent advised that this topic was beyond the scope of the agenda for this meeting and should be held at a latter date. Ms. Whelan said Sgt. Dawson's concern is legitimate and believes the Board should meet prior to the last Tuesday in December 2004 to discuss this issue before the current contract with Great-West expires.

Ms. De Foor advised the Board of Ms. Vincent's concern that the Board not indulge in further discussion of non-agenda items. Sgt. Dawson asked staff to schedule a Board meeting prior to the last Tuesday in December 2004.

5. Adjournment

Ms. De Foor requested a motion for adjournment. Mr. Romero moved to adjourn the meeting. Ms. Whelan seconded the motion. Ms. De Foor adjourned the meeting at 10:30 a.m.