

CITY OF LOS ANGELES
BOARD OF DEFERRED COMPENSATION ADMINISTRATION

ADOPTED MINUTES
REGULAR MEETING OF JANUARY 16, 2007 – 9:00 A.M.
700 E. TEMPLE STREET, ROOM 350

Board Members:

Present:

Bill Stein, Vice-Chairperson
Eugene Canzano
Michael Carter
Richard Kraus
Rick Rogers

Staff:

Personnel: Maryanne Keehn, Personnel
Steven Montagna, Personnel
Bryan Cowitz, Personnel

1. CALL TO ORDER

Bill Stein called the meeting to order at 9:10 a.m.

2. PUBLIC COMMENTS

None.

3. MINUTES

A motion was made by Mike Carter, seconded by Eugene Canzano, to approve the minutes of December 19, 2006; the motion was unanimously adopted.

Richard Kraus joined the meeting.

4. INVESTMENT PROVIDER PRESENTATION: HARTFORD LIFE INSURANCE

Paul Mesckiewicz and Ryan Moore, both of Hartford Life Insurance, were present to review the performance of the Hartford Stock Fund, Advisers Fund and Capital Appreciation Fund. Mr. Mesckiewicz began by indicating that Hartford used Wellington Management and Hartford Investment Management as sub-advisors for its investment offerings, and preferred this approach so that it could objectively review their performance. He stated that his role was with public funds.

Mr. Moore spoke next regarding the Hartford funds offered in the City's Plan. He reviewed the total assets held within each fund and noted that he was familiar with some of the performance issues identified for the Hartford Stock and Hartford Advisers Funds. He noted that the lead portfolio manager for both of these funds, Rand Alexander, had left the previous year for reasons both personal as well as related to fund under-performance. He indicated that Steve Irons and Peter Higgins had been established as the new co-portfolio managers.

Mr. Moore stated that the focus for these funds had expanded to include a broader range of investment possibilities, including both deep value stocks as well as aggressive growth holdings, but noted that the residual effect was that the average holding had not changed significantly. Mike Carter asked if the presentation included benchmarks, and Mr. Moore indicated it did not but this information could be provided to the Board.

Mr. Moore next discussed the fixed-income portion of the Advisers Fund, clarifying that 32% of the fund's holdings were held in fixed income and 68% in equities. Mr. Carter asked if the fund manager was allowed to invest in high yield, and Mr. Moore indicated that the fund's bond holdings were relatively conservatively invested, with up to 15% permitted in high yield bonds, but currently only 11%. With respect to the equity portions of both funds, Mr. Moore stated that the market capitalization was now very much in line with the S&P 500 Index, but over-weighted in technology and health care, while under-weight on energy.

Mr. Moore next discussed the Capital Appreciation Fund. He stated that the fund takes an opportunistic approach to investing. Mr. Kraus asked if Hartford had looked at who this Fund might appeal to vs. the other Hartford offerings. Mr. Moore replied that the Capital Appreciation Fund has a higher beta and an investor could expect more volatility. He further stated that the Fund has the ability to invest in international stocks. He noted that the fund has very few small-cap holdings due to its size, but some mid-cap exposure. Mr. Kraus asked how Hartford determined whether it would use Lipper or Morningstar for some of its comparative evaluations. Mr. Moore replied that either could be used, and that Hartford could provide information for both and forward that information to the Board.

Mr. Moore concluded by indicating that the Capital Appreciation Fund had made some adjustments to its management team, adding in some new resources to help prepare for the day when the current manager, Saul Pannell, might elect to retire. The presentation then concluded.

5. BOARD PRESENTATION/DISCUSSION: HARDSHIP WITHDRAWALS

Steven Montagna indicated that this presentation had originated as a result of a request from the Board for some general guidance on hardship withdrawal processing. He began by reviewing some of the general language regarding hardship withdrawals included within Internal Revenue Service (IRS) regulations. He noted that although IRS language provided examples of situations in which a withdrawal might be appropriate, the guidance was generally simplistic and the examples always qualified. As a result, he stated, they would not generally be directive on most specific situations.

He noted that IRS language was clear in certain areas, for example in making clear that use of the funds to purchase a home or pay for college tuition were not appropriate bases for permitting a hardship withdrawal. However, he stated, beyond those obvious examples the City's Plan still needed to develop a conceptual framework that reflected the broad framework of the law and which consistently incorporated certain key principles.

Mr. Montagna next reviewed staff's core principles, which involved establishing both a financial emergency and unforeseen or unavoidable event. He briefly reviewed how both of those tests could be met.

Mr. Montagna then led a discussion among Board members involving a number of hypothetical situations and whether they constituted a financial emergency or unforeseen event. Board members debated issues such as whether repossession of a vehicle, repayment of a personal loan, or danger of a damaged credit rating would constitute a financial emergency. They further debated questions such as whether income loss resulting from cosmetic surgery, wage garnishments for back taxes, loss of income due to disciplinary suspension, a home construction project exceeding a contractor's estimates, plumbing repairs of large or small amounts, spouses or co-renters moving out, gambling losses, and other situations would represent unforeseen events.

Mr. Montagna highlighted two issues in which the questions of whether a financial hardship could be established would need to be set aside because of a larger concern: in cases where a community property interest was at stake in the participant's account, and in cases where the financial hardship really belonged to a non-qualified dependent. He concluded by describing how staff transmitted cases to the Board, providing a history of the number of cases processed by the Board annually, and the results of Board actions. The presentation and discussion then concluded.

6. GREAT-WEST REPORT: AUTOMATIC CONTRIBUTION INCREASES

Usha Archer of Great-West Retirement Services was present to review Great-West's report on implementation of functionality for automatic contribution increases. She indicated that the functionality would allow participants to have their contributions go up by pre-determined amounts up to a maximum contribution level; provide for a single payroll deferral change; and provide for a future-dated deferral change. She indicated that some technical issues still needed to be worked on before this would be implemented but that Great-West was very close to production.

Richard Kraus asked about the possibility of setting contribution increases by percent as well as by amount. Mr. Montagna indicated this might be possible but that using percents presents communication challenges for participants because they will need to calculate the dollar impact on their pay. Ms. Archer indicated her agreement and noted her experience with County of Los Angeles employees, who make contributions as a percent of pay and experience significant confusion with it. Mr. Carter asked about the status of allowing post-severance deferral of sick and vacation pay. Mr. Montagna indicated that this was still pending with the City Controller and the new payroll system, and that DWP had indicated it would proceed with implementation once the functionality was made available under the City's payroll system.

7. BOARD REPORT 07-01: STAFF REPORT

Mr. Montagna indicated that Committee meeting dates had been scheduled and would be held on January 24. He further stated that the City Attorney was drafting the ordinance concerning the Plan governance changes approved by the City Council. Mr. Carter indicated his concern that the elected Pensions representative would always be a Police Officer under the current rules and asked if this issue had been considered. Mr. Montagna indicated that he recalled that the issue had been discussed by the Task Force which had generated the recommendation, but did not recall the specifics regarding that discussion.

Mr. Montagna further indicated that meetings for DROP participants were proceeding as scheduled. Mr. Carter indicated that many of his constituents would have difficulty in being able to come downtown on Thursday afternoons and suggested that staff and Great-West explore going out to more convenient gathering sites.

8. HARDSHIP APPLICATIONS

The Board first considered those hardship applications recommended for approval. Maryanne Keehn noted that case 07-08 had actually been recommended for denial and would need to be heard by the Board. **A motion was then made by Mike Carter, seconded by Eugene Canzano, to approve full hardship withdrawals in Case Nos. 07-01 and 07-02; the motion was unanimously adopted.**

The Board next considered Case No. 07-03. The applicant was present. The applicant indicated that he was applying as a result of lost overtime, and that as a Police Officer he had been receiving regular overtime following the events of September 11, 2001. Mr. Rogers questioned whether it was possible for the applicant to liquidate some of his existing vehicles to resolve his current emergency. The applicant responded that he could not do so because the amounts owed exceeded the value of the properties. Mr. Canzano indicated he would support a withdrawal of \$22,000. Mr. Kraus expressed some concerns regarding whether this amount was consistent with the amount identified by staff as the financial emergency amount. **A motion was made by Eugene Canzano, seconded by Mike Carter, to approve a partial withdrawal of \$22,000 (net) in Case No. 07-03; the motion was adopted by a vote of 4-1 (Canzano, Carter, Rogers and Stein in favor; Kraus opposed).**

The Board next considered Case No. 07-04. The applicant was present. She indicated that her financial emergency was the result of a delay in her being paid. Board members questioned staff regarding what payroll records indicated. Ms. Keehn stated that records did not indicate a delay of pay. Mr. Montagna indicated that even if there had been an interruption in pay, this would not change staff's recommendation because without actual wage loss an unforeseen event could not be established. Following this discussion, **a motion was made by Richard Kraus, seconded by Mike Carter, to deny the hardship application in Case No. 07-04; the motion was unanimously adopted.**

Bill Stein left the meeting; Gene Canzano assumed the duties of chairperson.

The Board next considered Case No. 07-05. The applicant was present. The applicant indicated that his financial difficulties stemmed from changes in the award of overtime within the Fire Department. Staff indicated that its wage review indicated that the applicant's income had actually increased in 2006 compared to the prior year. Mr. Carter indicated that he was prepared to support a withdrawal based on the overtime change. Mr. Kraus indicated his concern that no income loss had been demonstrated. A motion was made by Mike Carter, seconded by Gene Canzano, to approve a partial hardship withdrawal of \$20,000; the motion failed with two affirmative votes (Carter and Canzano) and two negative votes (Kraus and Rogers). A motion was then made by Richard Kraus, seconded by Rick Rogers, to deny the hardship application; the motion failed with two affirmative votes (Kraus and Rogers) and two negative votes (Carter and Canzano). The matter was therefore continued to a future Board meeting.

The Board next considered Case No. 07-06. The applicant was present. The applicant indicated that he was applying based on the lost income from his wife. Staff indicated that it had recommended that the matter be deferred because the applicant was in the process of getting divorced and nothing had been received from the court indicating that community property issues had been resolved. Mr. Canzano indicated he was inclined to support the application contingent upon receiving appropriate documentation from the court. Mr. Kraus indicated he was concerned with receiving other documentation, including the outstanding wage information and medical documentation for the applicant's wife as noted by staff. Mr. Canzano asked Mr. Rogers to assume the role of chairperson. A motion was then made by Gene Canzano, seconded by Mike Carter, to approve a full hardship withdrawal contingent upon receipt of appropriate documentation from the court concerning the community property issue, to the satisfaction of the City Attorney; the motion failed with three affirmative votes (Carter, Canzano and Rogers) and one negative vote (Kraus). **A motion was then made by Richard Kraus, seconded by Gene Canzano, to approve a full hardship withdrawal in Case No. 07-06 contingent upon staff's receipt of outstanding wage information and verified actual medical expenses as identified by staff, and contingent upon receipt of appropriate documentation from the court concerning the community property issue, to the satisfaction of the City Attorney; the motion was unanimously adopted.**

Mr. Canzano again assumed the duties of chairperson.

The Board next considered Case No. 07-07. The applicant was present. The applicant indicated that his financial situation resulted from a sharp increase in his child support and his attorney's failure to prevent or remedy this. Following this discussion, **a motion was made by Mike Carter, seconded by Rick Rogers, to approve a full withdrawal in Case No. 07-07; the motion was unanimously adopted.**

The Board next considered Case No. 07-08. The applicant was present. The applicant indicated that his financial situation was the result of his fiance's having ended their relationship, thus leaving him with a full mortgage payment. After some discussion, **a motion was made by Mike Carter, seconded by Rick Rogers, approving a full hardship withdrawal in Case No. 07-08; the motion was unanimously adopted.**

9. REQUESTS FOR FUTURE AGENDA ITEMS

Mr. Kraus asked if the Board could consider taking action to mandate that hardship applications not be forwarded to the Board if a community property interest issue or qualified dependent issue had not been resolved to the satisfaction of the City Attorney; Mr. Montagna indicated this could be placed on the next month's agenda.

10. NEXT MEETING DATE – February 20, 2007

11. ADJOURNMENT

The meeting adjourned at 2:10 p.m.

* Minutes prepared by staff member Steven Montagna