

**SPECIAL MEETING OF THE RETIREMENT BOARD OF ADMINISTRATION
WATER AND POWER EMPLOYEES' RETIREMENT PLAN
MINUTES**

JUNE 3, 2009

Board Members Present:

Javier Romero, President
Cindy Coffin, Vice President
Barry Poole, Board Member
Michael Moore, Retiree Member
H. David Nahai, General Manager
Jeff Peltola, Chief Financial Officer
Forescee Hogan-Rowles, Commissioner

Board Members Absent:

None

Staff Present:

Sangeeta Bhatia, Retirement Plan Manager
Monette Carranceja, Ass't Retirement Plan Manager
Mary Higgins, Ass't Retirement Plan Manager
Jeremy Wolfson, Chief Investment Officer
Julie Escudero, Utility Executive Secretary

Others Present:

Alan Manning, Assistant City Attorney
Michael Wilkinson, Deputy City Attorney

President Romero called the meeting to order at 9:50 a.m.

Ms. Bhatia indicated a quorum of the Board was present.

Public Comments

There were no public comments.

Agenda Item

1. Discussion of Action Pertaining to the Retirement Office Budget taken by the DWP Board of Commissioners at its Meeting Held May 21, 2009

Ms. Bhatia explained this item was brought to the Board for information and to discuss solutions as far as next steps. She reported the following:

The Retirement Board approved the Retirement Plan budget at the regular meeting held on February 18, 2009. Six Board Members were present and all Members present, except for Mr. Peltola, voted to approve the budget. This year the Retirement Office requested eight new positions consisting of five clerical positions, two utility administrative positions, and one investment officer. The justification, as well as the cost impact, was presented to the Retirement Board, and these positions were approved. Subsequent to the approval of these positions by the Retirement Board, she was asked more than once how the budget could be reconsidered in light of the economic environment, and she explained how a Board Member could request that the item be placed back on the agenda of any Retirement Board meeting, and in addition, an opportunity was presented at the end of every Board meeting to request future agenda items. She explained that once the budget is approved by the Retirement Board, the information is provided to the Financial Services organization and Human Resources to make sure that the information for the approved positions is incorporated into the Annual Personnel Resolution (APR) that reflects all changes to positions for the entire Department for the upcoming budget year. An employee in the Financial Services organization informed the Retirement Office that the positions approved by the Retirement Board in February would not be incorporated into the APR because the Board of DWP Commissioners, at their May 21,

2009, meeting, had disapproved seven of the eight positions that were requested. The Board of Commissioners did approve the Investment Officer position.

She explained the Retirement Plan budget has always been a separate document submitted to the Mayor and City Council and is not part of the Department's budget. She noted historically, the Board of Commissioners has never reviewed, altered, or adopted the Retirement Plan budget. Given this historical perspective, there were serious issues that occurred with the administrative process that was followed. The process lacked some necessary key elements; there was no communication with the Retirement Staff or the Retirement Board by the persons responsible for the Board of Commissioners' action that was planned and taken, either before the Commission meeting or after the action was taken. There had been no request for information regarding the Retirement budget, and no discussion at the Commission meeting regarding the positions critical for Retirement Plan operations. When Ms. Bhatia asked for a copy of the record regarding the action by the Board of Commissioners, she was informed that there was no record other than the verbal motion. The agenda that was posted for the Commission meeting did not indicate that a review of the Retirement Budget would take place. She stated that since the current DWP organization chart does not yet show that the Retirement Plan falls under the Water, Power, or Joint systems, there was no reason to believe any action would be taken with respect to the Retirement Plan budget. Since in the past the Retirement Plan budget has never been presented to the Commission for review, this was a precedent setting action and a greater need existed for adequate communication, disclosure, and information sharing. Ms. Bhatia stated that a summary disapproval of the Retirement Office's request for personnel will have a detrimental effect on the Plan's operations and ability to adequately perform the work that the Retirement Office is held accountable and responsible for. The Retirement Office has made significant investments and commitments in a new computer system and needs the resources to complete the project. She explained the positions that are considered critical for the Water and Power systems are not necessarily the same positions that are critical for the Plan operations, and there needs to be a discussion. It is very important that the Board hears the justification for these positions once again, and she respectfully requested that the reconsideration of the Retirement Plan budget be placed on the agenda for one of the upcoming meetings.

Ms. Bhatia noted that the objective today was to report on the events that had occurred. She said Staff had explored options and was prepared to suggest priorities with respect to the positions requested. She said that if the Retirement Board directs, the budget can be scheduled for discussion at an upcoming meeting.

Mr. Romero stated he was very concerned with the entire process and noted if an item needed to be readdressed, it could be requested at the end of each Retirement Board meeting under New Agenda items. He said that no one requested it be brought back before the Retirement Board. He said that what concerned him more than the budget issue was the process. He said he believed it is important that everyone recognize that the Retirement Board is protected by Proposition 162, and the Retirement Plan indicates that the Retirement Board has sole and exclusive authority over the administration of the Plan, which includes the budget. He said the process was wrong and that staff was prepared to discuss changes. He said the Commission was uninformed of staff's needs, what the requested positions were for, and how they would impact the Retirement Plan. He said what they saw was the dollar amount involved and cut the positions to reduce the cost. He reiterated what Ms. Bhatia said regarding no notification was made that the budget would be discussed at the Commission meeting and also that the Retirement Office is separate from the Water, Power, and Joint systems. He said he agreed that this matter needs to come before the Board again for reconsideration as an action of the Retirement Board, and not by the Board of Commissioners, and all action should be pursued as a result of what happens at the Retirement Board and not the Commission. He asked the City Attorney to provide alternatives if the Commission does not allow the Retirement Board to decide the budget that affects the Plan. He said he thought maybe the

Retirement Board needed to consider litigation in the event of a conflict of interest between the Retirement Board's counsel and the Commission's counsel and independent counsel may be necessary. He stressed how upset he was with the process taken and the lack of transparency, and he repeated that the Retirement Board never indicated it would not reconsider the budget, and no one ever requested it be brought back to the Retirement Board.

Ms. Hogan-Rowles stated she apologized to Mr. Romero and the rest of the Retirement Board because she made the Commission motion but stated she was also told by the Commission's Management team that the Retirement Office had been consulted and was in agreement, and had even determined which positions were not critical. She said she made the motion based on that information, and if she had known that was not true, she would not have done so, especially since she was the one who had advocated for the positions. She stated she received bad information and felt bad about it and said she was told that Retirement staff, in particular the Plan Director, had been consulted and had helped to determine which positions were critical and non-critical. She apologized again.

Ms. Bhatia reiterated she had not met with anyone or had a conversation with anyone who told her the budget was going to be considered at the Commission level. She had been asked about the process to place the budget back on the Retirement Board agenda but was never asked about which positions were critical.

Ms. Hogan-Rowles stated she was prepared to assist in whatever way she could.

Ms. Coffin expressed her agreement with Mr. Romero and said she appreciated Ms. Hogan-Rowles' candor in her apology. She said she agreed that the process needed to be addressed, and she acknowledged that at the time the budget was voted on by the Retirement Board, she had concerns about Mr. Peltola, as the Chief Financial Officer, voting due to the perception of a possible conflict of interest because of his involvement with the Department's budget process. She stated she thought the presentation of misinformation was very wrong and did not appreciate the backdoor activities that occurred.

Mr. Peltola indicated that the Special Commission meeting agenda, when the budget was discussed, included a number of budget motions and that was the opportunity for the Commission to provide input into the Department's overall budget. He said he was the one who asked how to place the budget back on the Retirement Board agenda, but he said he never requested that it done and said he should have done so. He thought Mr. Romero brought up some legitimate governance issues and agreed the governance issues should be addressed. As for the budget, he indicated he thought the better way to have handled it would have been to bring it back before the Retirement Board for a revote. He noted that since the time the budget had been presented, the Mayor had declared a fiscal emergency. He described the current state of the City's finances. He said all of this should be put into perspective because the Finance Office and the Board of Commissioners must ensure that the Department continues to provide reliable water and power at reasonable rates. He said he thought the process concerns were legitimate and need to be reviewed, but he would like to bring the budget back and look at it with the greater good in mind.

Mr. Poole stated that because he was not a Board Member at the time the budget was brought before this Board, he would like to know if the requested positions are critical. He expressed his concern with the governance issues and the autonomy of the Retirement Board and that a solution needed to be found or a definition made of what the governance should be and that it should be considered under the provisions of conflict of interest.

Mr. Nahai explained that given this year we had a 25% reduction in the value of the Retirement Plan and given the Department's obligation to continue to meet the retirement benefits, it appeared clear

that we would have to cut back in many areas. He said there are many Department projects that have not been able to proceed, and ambitions as far as staffing up have had to be cut back. He said the Department had issued a hiring freeze as of April, except for critical classes, in an effort to cut back expenses precisely because the Retirement Plan benefit requirements had to be met. He explained the Department met with every division in every area, and all wanted additional staffing and money and all had urgent projects that were needed, and they had to have frank discussions on the ability to fund those and many had to be deferred, and for the Department, the principal driver was in the value of the Retirement Plan. The Department had many meetings, and one was with representatives of the Retirement Plan who came to the meeting with a decision already wanting additional positions. He said maybe that process needs to be changed in the future and maybe discussions should take place before those decisions are made, but there was no way to address that. He said maybe this was not an issue in the past, and the Retirement Board made its decisions and presented them to the Department, and the Department said okay, but the Department is not in a position to be able to do that. He emphasized that the driver for the Department is the reduction in the value of the Retirement Plan, but he also said that he did not want that statement misconstrued. He said he has nothing but the greatest respect and admiration for the Retirement Board, and he thinks our Retirement Plan has performed splendidly given all of the circumstances. He stressed that he believes this is a well positioned, well diversified Plan in a good position to weather the current downturn, and that it has fared a great deal better than other plans, but the Department is still in that situation, so both economically and politically the Retirement Board's request was not feasible. He said in the future the process should be changed, but the Department is in a situation right now. He said he was not aware that no one had discussed this with Ms. Bhatia, but he thought a Retirement Plan representative had attended a meeting. He said that initially the Department did not agree to any additional positions but eventually agreed to fund one position.

Ms. Bhatia asked for clarification of which meeting included a Retirement Office representative, and Mr. Nahai said he was referring to the Budget meetings. Ms. Higgins clarified that Mr. Nahai was discussing the meeting that was held after the Retirement Board had taken its action. She indicated that she and Ms. Carranceja attended a review meeting with Mr. Nahai, but the Retirement Board had already taken its action. Ms. Bhatia added that the Retirement Office had discussed placing the budget back on the agenda but they never received such a request. She added that, subsequent to that, the budget was heard at the Commission level, and the Retirement Budget was not referenced in their agenda. She emphasized that she was not informed, there was no request for justification, there was no information sharing that this was occurring, this has never happened before that the Board of Commissioners has ever reviewed the Retirement Plan budget. She said she was bringing this matter to the attention of the Retirement Board because it was a precedent setting issue. She added that after Mr. Nahai's discussion with the Assistant Plan Managers, she discussed with them internally that when the item was brought back to the Retirement Board what steps could be taken to prioritize the positions needed and how best to use resources. She added staff was ready to have that discussion; however, no Board Member placed it on the agenda, and instead, the Retirement Office heard that one position was arbitrarily approved without any discussion and the others were considered non-critical.

Mr. Nahai asked who places items on the agenda, and Ms. Bhatia replied that any of the Board members can ask that an item be placed on the agenda. Mr. Romero added that requests for future agenda items are added at the end of each Retirement Board meeting. Ms. Bhatia added that staff runs requests through the Board President. Mr. Nahai agreed that after the review meeting took place and Ms. Bhatia had been informed, it should have been placed on the agenda again.

Ms. Hogan-Rowles expressed her anger and frustration at being given misinformation that the Retirement Plan Manager had made the decision on which positions to disapprove. She said the process itself was a problem if the Retirement Board approved a budget then arbitrarily, without discussion, the Commission cut the requested positions. She thought it had gone back to staff to

determine which positions are critical, which it did not, but she said it still should have come back to the Retirement Board because of the process that was already in place. She said the anger seems to be coming from the process itself. She said she understands the separation of duties between the Department and the Retirement Board because of the fiduciary responsibility. She added that she has had a concern for some time that we need to make sure we are watching our investment managers and investments, and that staff is empowered to perform the reviews, and maybe the Retirement Office does not have enough staff make sure our investments were being watched to the extent necessary. She asked the City Attorneys present if this has ever been done before and if their recommendation would be to create a policy that clearly states how the budget process should work.

Mr. Manning responded that the City Attorney's Office was not aware of any process like this ever having taken place previously. Mr. Romero added that it is in the Plan that the Board is the authority for the administration of the Plan. Mr. Nahai said the Department has had difficult decisions to make in order to make sure that they deal with the basic needs of the City and provide the services necessary while also meeting their responsibilities and also ensuring that the Retirement Board is able to do its work. He stated his understanding was that previously the Retirement Board would reach a budget decision, present it to the Department, the Department would say okay, and that would be the end of it. Ms. Bhatia expounded that the process involved a review of the budget with the Chief Financial Officer's office as well as the General Manager, and a budget was developed keeping in mind the Department's goals for the year. The budget was then brought before the Retirement Board where representatives at the Retirement Board meeting would be able to discuss their perspectives before the budget was adopted by the Retirement Board. Mr. Nahai indicated that the Chief Financial Officer had attended that meeting and presented the Board's perspective and voted no on the budget. Nevertheless, he said he felt the budget was approved in a vacuum. He said after that another conversation took place in which the realities of the situation were laid out. He indicated he did not know what happened in terms of conversations with the Retirement Plan Manager or the Retirement Board. He said the process might need to be changed in the future where a more thorough review should take place prior to the Budget being discussed and approved by the Retirement Board, but in this present situation, it appeared to him that a budget had been approved by the Retirement Board and it was being presented to the Department almost for a rubber stamp, but that cannot happen this year. We should now start to explore a solution.

Ms. Coffin stated the Board had dealt with the issue of the budget and Ms. Bhatia made a very thorough explanation on what positions were needed and the Board voted on it. She said she believed the Board was very well informed but if there were questions it did not come back to the Board, and she believed that was the problem. Nonetheless, the Retirement Plan is not in the Joint, Power, or Water systems but stands alone on the organization chart so if there was a problem with the budgeted decisions that the Retirement Board had approved, it should have been brought back to the Retirement Board. She believed the Retirement Board was willing to consider a compromise, but it was not brought back to them and the Commission's decision was arbitrary, based on misinformation. She asked what should be done now.

Mr. Romero added that the Board's decisions are based on the best interests of the Plan and not on what the budget or the Mayor says.

Mr. Moore said he believed everyone seemed to agree that the process caused problems and it was a governance matter which is a sensitive issue, and that everyone was aware and concerned with the budget and the political environment. He suggested the matter be brought back to the Retirement Board as an action and reviewed again. With respect to the governance issues and the process longer term, he said he thought it should be sorted out through the Governance Committee. The Retirement Board, Management, and the DWP Commissioners need a better understanding of what the relative roles of each of them are and how they should be working together to make it work.

Mr. Poole reiterated his concern that the Commission adopted a motion that affected the Retirement Board's process. Mr. Nahai expressed his concern that the request to add the requested positions should have included more discussion before that vote was taken by the Retirement Board. Mr. Poole stated he believed the Retirement Board should be autonomous but not work in a vacuum, but his concern was that a motion was on the record stating the Commission has overridden the Retirement Board's decision.

Mr. Nahai stated that one issue was that the Retirement Board is not monetarily self-sustaining and that was why more discussion should have occurred prior to the Retirement Board's vote.

Ms. Bhatia stated that the Retirement Board adopted a resolution, which has been the final resolution in the past, and that resolution was referenced in the Commission motion. She asked the City Attorneys to comment on how this could be brought back for reconsideration by the Retirement Board to properly discuss which positions are critical for the Plan's operations, despite the Commission's verbal motion.

Mr. Manning replied that the budget can be brought back in the context to the Retirement Board, but he could not give any advice as to what the Commission could or should do.

Ms. Hogan-Rowles said she believed the question seemed to be how to respond to the need to reduce the budget. She reiterated she believed the flaw that caused this was based on communication and something needed to be put in place to prevent this from reoccurring. She asked Mr. Peltola what the deadline was to submit the budget. Mr. Peltola replied the budget was due at the end of June but the budget could be amended and changed at any time. He added that the APR probably would not come before the Commission until August.

Ms. Hogan-Rowles moved that the budget issue be placed back on the agenda for the next Retirement Board meeting to decide what positions are critical and where the budget cuts would come from; seconded by Ms. Coffin and carried unanimously after the following vote:

Ayes: Romero, Coffin, Poole, Moore, Hogan-Rowles, Nahai, and Peltola
Nays: None

The meeting adjourned at 10:42 a.m.



JAVIER ROMERO
President

7/1/09

Date



SANGEETA BHATIA
Retirement Plan Manager

7/1/09

Date



JULIE ESCUDERO
Utility Executive Secretary

7.1.09

Date