MINUTES

SAN JOSE / EVERGREEN COMMUNITY COLLEGE DISTRICT
RETIREMENT BOARD OF AUTHORITY MEETING
May 3, 2023
1:30 PM–3:30 PM

I. CALL TO ORDER

a. The meeting was called to order at 1:33 PM by Dan Hawkins, RBOA Chairperson.

II. ROLL CALL

1. **All Retirement Board of Authority (RBOA) members were present: except Joseph Chesmore, Executive Director, Fiscal Services.**
   Vacant, Vice Chancellor, Administrative Services
   Dr. Beatriz Chaidez, Associate Vice Chancellor, Human Resources
   Dan Hawkins, Staff and Member, CSEA Chapter 363 (RBOA Chair)
   Maria Holguin, Staff and Member CSEA, Chapter 363
   Arlene Amelia, Retired Staff and Former Member CSEA, Chapter 363
   Jessica Breheny, Faculty & Member of AFT 6157
   David Yancey, Retired Faculty & Member of AFT 6157R
   Patrick Butler, Retired Faculty & Member of AFT 6157R

2. **All Coordinators/Consultants were present:**
   Roslyn Washington, Assistant Vice President, Keenan Financial Services
   Kristin Cooper, Sr. Service Analyst, Keenan Financial Services
   Mark Payne, Consultant, Morgan Stanley, Investment Advisor to BTC
   Scott Rankin, Senior Vice President, Benefit Trust Company

3. **Guests:** None

III. PUBLIC COMMENTS

a. There were no public comments.
b. This item is information only.

IV. DECLARATION

a. **Assembly Bill 2449** amends the Ralph M. Brown Act that requires with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The Retirement Board of Authority (RBOA) oversight committee has concluded, by a majority vote, that meeting in a hybrid fashion with both in-person and virtual attendees would be in the best interest of the board. This bill would revise and recast those teleconferencing provisions and, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the

notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participate in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. This declaration will remain in force until January 1, 2024, until further notice and alternate action is taken by the RBOA.

b. David Yancey moved to approve; motion seconded by Arlene Amelia
7 in favor/0 opposed. Motion Carries.

V. ACKNOWLEDGEMENT

a. For the avoidance of confusion or doubt, the San Jose/Evergreen CCD Retirement Board (Board) AFFIRMS and ACKNOWLEDGES that Graystone Consulting Institutional Services (Graystone), a division of Morgan Stanley Smith Barney LLC, provides general financial and investment information to the Board, and that this information is being provided as investment education ONLY and not as investment advice. The Board also AFFIRMS and ACKNOWLEDGES that Graystone is contracted to provide investment advice solely to Benefit Trust Company as concerns of the Futuris Program, and not directly to the Board.

b. Dr. Beatrice Chaidez moved to approve; motion seconded by Arlene Amelia and unanimously carried by all board members present.
7 in favor/0 opposed. Motion Carries.

VI. APPROVAL OF AGENDA

a. Jessica Breheny Moved to approve the agenda as presented; Motion was seconded by Patrick Butler and was unanimously approved by all the Retirement Board of Authority members present.
9 in favor/0 opposed. Motion Carries.

VII. APPROVAL OF MINUTES

a. Patrick Butler Moved to approve the Minutes **from October 22, 2022,** with suggested changes; Motion was seconded by Jessica Breheny.

b. 7 in favor/0 opposed. Motion Caries.

VIII. INVESTMENTS

1. Portfolio Performance Review

a. Mark Payne of Morgan Stanley (MS) reviewed the performance of the accounts as of **March 31, 2023.**

b. The Portfolio Value as of September 30, 2022, was **$37,571,176.01**

Time weighted return net of fees

Month to Date	Quarter to Date	Year to Date	Latest 1 Year	Annualized latest 3 Year	Annualized latest 5 Year	Annualized latest 10 year	Annualized Inception to Date
1.80	5.02	5.02	-9.04	4.60	2.58	4.69	6.79

c. Jessica Breheny Moved to approve the Portfolio Performance Review as presented; Motion was seconded by David Yancey and was unanimously approved by all of the Retirement Board of Authority members present.
7 in favor/0 opposed/0 abstention. Motion Carries.

2. Market Overview

a. Mark Payne of Morgan Stanley gave an update on current market conditions.
b. 2022 was the worst year in bond history ever. Bonds were down 13% from Jan 2022 thru Dec 2022. The second worse year was in 1994 when bonds were down 3%.
c. The portfolio this district is in has a 50/50 asset mix. In most instances when stocks are down, bonds tend to do well to offset any losses you may obtain with equities.
d. Last year grown stocks were down between 30-40%, while blue chip stocks were down 4-5%.
e. The driver of everything last year was inflation. At the beginning of 2022 the market was predicting that inflation was just transitory. This turned out not to be the case.
f. As inflation grew, the Federal Reserve began to slowly increase interest short-term rates in hopes to thwart off inflation and the increase in consumer spending that was causing it.
g. The Feds increased short-term interest rates 7 times in 2022 until I went from zero to the mid 4% range by end of year.
h. They are on board to increase rates 2 more times in the first quarter of 2023 before they stop.
i. By the end of 2022, inflation began to decline aggregately, and Morgan Stanley believes it will hopefully reach the mid 3% range by end of 2023.
j. The 10-year treasury is now at 1. 2%. Comparing it to 4/3% in the beginning of 2022.
k. Morgan Stanley feels with all this past us there is a great opportunity for bonds this year because of the low share cost.
l. Stocks on average follow earnings. Morgan Stanley believes earnings are rated too high now and they don't anticipate growth for this year to be more than .5%.
m. This is an information item only.

3. Investment Policy Statement Review

a. Scott Rankin presented the Investment Policy Statement.
b. In the packet was the 2018 IPS and not the current IPS dated 2020, when language changes were made to replace the words "Target Rate of Return" with "Target Asset Allocation". There were no changes made to the Asset Mix in 2020 and the trust is still at a 45% Equities/55% Fixed Income Asset Mix. There are no additional language changes recommended by BTC at this time.
c. Patrick Butler moved to reaffirm the IPS; Motion was seconded by David Yancey and unanimously approved by all board members present.
7 in favor/0 opposed, motion caries.

IX. ADMINISTRATION

1. Election Retirement Board of Authority (RBOA) Chairperson

a. Arlene Amelia nominated Dan Hawkins as RBOA Chair; Patrick Butler nominated Jessica Breheny as RBOA Chair. After further discussion the nomination for Danny Hawkins as RBOA Chair was seconded by Patrick Butler and unanimously approved by all board members present.

7 in favor/0 opposed. Motion caries.

2. **Election Retirement Board of Authority (RBOA) Vice-Chairperson**
   a. Patrick Butler nominated Jessica Breheny as RBOA Vice-Chair; Motion was seconded by David Yancey and unanimously approved by all board members present.
   7 in favor/opposed. Motion Carries

3. **Disbursement Report**
   a. Roslyn Washington of Keenan presented the trust disbursement report reflecting fiduciary withdrawals reimbursed back to the district for retiree health benefit expenses, and fees paid to Keenan, BTC & Morgan Stanley for the period November 2022 thru April 2023.
   b. The fees are based on a contractual obligation the district has with the consultants (Keenan & BTC) Morgan Stanley fees are contracted directly with Benefit Trust and not the district.
   c. This item is information only.

4. **Retiree Health Benefit Reimbursement Expenses**
   a. The Retirement Board of Authority was provided a list of withdrawal request the district submitted to Benefit Trust Company to cover OPEB expenses from October 2022 – April 202
   d. Patrick Butler advised that members of the RBOA are asked to approve about 2.7 million dollars in yearly expenses that are, "as far as I can see, not broken down". To reiterate, it is impossible to judge and approve expenses we cannot see itemized information about.
   e. Roslyn Washington of Keenan advised that the reimbursement request require 3 signatures (1 Mgmt, 1 AFT, & 1 CSEA member) before BTC will process the request sending funds back to the district. BTC does not require an itemized listing of the actual expenses from the district.
   f. This is an information item only.

5. **Actuarial Valuation Study Update**
   a. Actuarial Valuation Study with an effective date of June 7, 2022, was presented to the Board of Authority.
   b. The district is currently in the process of obtaining a roll forward draft for fiscal year ending June 30, 2023. This draft should be available before the October 2023 meeting.
   c. Patrick Butler asked if there was someone from Management that could go over the Actuarial Valuation Report? Dan Hawkins responded that this request would have to go thru Joseph Chesmore. Gail Beal of Keenan stated that some districts invite a representative from the actuarial firm to attend the meeting to go over their assumptions and costs. However, that may likely be an additional cost to the district.
   d. This is an information item only.

6. **Retiree Benefit Cost Data for Fiscal Year 2022-2023**
    a. A report from Alliant Insurance Services was provided by the district's benefit specialist Michelle McKay. This report contained health and dental cost information from each carrier for fiscal year 2022-2023.
    b. Unfortunately, Michelle McKay was not in attendance to give a review of this report.
    c. David Yancey & Patrick Butler asked if someone from the district could attend to explain the breakdown cost of the benefits to show that they are equal to the monthly withdrawal request?
    d. Dan Hawkins, RBOA Chair advised that this request for information can be made with RBOA Management Representative, Joseph Chesmore and brought back to the next RBOA meeting in October 2023 for further discussion & review.
    e. This is an information item only.

7. **Update of Retiree Health Benefit Request.**
    a. Dan Hawkins, RBOA Chair opened the floor for discussion.
    b. Roslyn Washington, Keenan presented the RBOA with a letter sent to district management and the governing board, **drafted by Patrick Butler requesting the additional $1,500 a month coverage** for current retirees Medicare costs that have increased tremendously over the years.
    c. A response to that letter drafted by Interim Chancellor, Dr. Raul Rodriquez was presented to the RBOA with the summary findings **listed below**:
    d. Patrick Butler advised the RBOA that he recently responded to the denial letter sent by Interim Chancellor Rodriquez, and he would like this letter to be made public and will forward to Roslyn Washington, Keenan to be added to the Futuris file.

As stated in the AFT CBA as well as in previous contracts, the District is prohibited from paying for any Medicare coverage for the retiree and/or spouse. The SJECCD Board of Trustees intends to remain in compliance with the existing CBA. There is no interest from the Board of Trustees in renegotiating the existing CBA to allow the District to pay for Medicare coverage. Therefore, the recommendation of the RBOA to use Trust funds to cover the basic cost of Medicare Part B is denied.

We acknowledge and appreciate all your years of service to the District and wish you the best.

Response from RBOA member Patrick Butler to Raul Rodriguez: The attached letter proposes an additional $170. per month for the principal retired staff.

Dear Raul,

Thank you for your email of March 28, 2023

I need to respectfully correct your statement that '...you addressed the Board as a representative of the Retirement Board of Authority (ROBA)." At that meeting I very deliberately stated that I was speaking for myself as a retired faculty member

who was one member of the RBOA. This is perhaps a small distinction, but an important one.

Regarding this subject, in your email of March 7, 2023, you responded to AFT 6157 regarding the ROBA recommendation:

"Thank you for your message concerning the Retirement Board of Authority recommendation. We are planning to brief the Board of Trustees on this issue once we have completed gathering the relevant information. As this is a legal matter involving funds that have been placed in a trust, our typical legal counsel does not have sufficient expertise in this matter. *We are in the process of consulting with legal counsel that does have expertise in this area*" [italics mine].

May I ask you what legal counsel you were in the process of consulting with when you wrote that email?

Regarding the past and present faculty contract language that you quote, I have hard copies of the contracts and certainly am aware of the language. However, as I am sure you know, the Rodda Act of 1975 (SB160) specifically empowers most California public school employees to organize and represent employees of their districts. The operative word here is employees. Once a faculty member retires, they are outside of the bargaining unit and no longer subject to their former collective bargaining agreement.

If you consult the same contract which you referenced to me from the 1980s you will see on the very first page, Article1.1 the following. "The District recognizes the Association as the exclusive representative for those *employees* [italics mine] recognized by the District in a resolution dated July 27, 1977." I was at that Board meeting in 1977 as President of CTA, the union at that time for the faculty. The recognition was, in accordance with the Rodda Act, only to represent current employees of the District.

In the second contract you mention, the current agreement with AFT 6157, you see the same restrictions to representation. Article 1.1 reads "The District recognizes the San Jose/Evergreen Federation of Teachers Local 6157 as the exclusive representative for those faculty members acknowledged by the District in a resolution dated July 29, 1977 and as amended on March 26, 1987 and on March 11, 2002." That very first page goes on to spell out the additions mentioned in the quotation and all cover only current employees of the District.

I have two conclusions from this contract language. The AFT 6157 can and should discuss with the District medical and other benefits for retired faculty, but as they are not officially represented, there can be no impasse declared or mediation requested, etc. regarding persons who are no longer in the unit. Therefore, the language in those

contracts, such as that concerning Medicare, cannot apply to retired faculty. Secondly, if you believe that the faculty contract prohibits Medicare payments to retired faculty, what language prohibits such payments to retired classified staff or retired managers, supervisors or confidential employees that was proposed in the recommendation?

However, I believe that there is a simple way to avoid the argument presented to deny providing some compensation for the well-documented increases in medical costs borne by our retired staff who are beneficiaries of the RBOA Trust. I am proposing *as an individual retired member of the faculty* the following action to the SJECCD Board of Trustees:

"The Board of Trustees directs the Retirement Board of Authority Trust to provide the primary beneficiaries of the Trust $170. per month for medical expenses to partially compensate those former staff members for the rising costs of medical care."

I believe that there is no collective bargaining contract language, past or present, that would prohibit this action.

Thank you for your attention to this matter and I look forward to seeing you at the next Board of Trustees meeting on April 11.

Patrick Butler
Retired Prof. of Psychology 1969-2009

Cc Steven Mentor
Members of the Board of Trustees

X. INFORMATION REPORTS

1. **Retirement Board of Authority Comments**
   a. No comments.
   b. This item is information only

2. **Program Coordinator/Consultant Comments**
   a. No comments.
   b. This item is information only.

XI. DATE, TIME, AND AGENDA ITEMS FOR NEXT MEETING

e. **October 18, 2023, 1:00pm – 3:00pm**

XII. ADJOURNMENT

a. Meeting was adjourned at 2:51 pm by Danny Hawkins, RBOA Chair.