

ATTACHMENT E

SEPTEMBER 17, 2014 BOARD MEETING TRANSCRIPT (EXCERPT)

MEETING
STATE OF CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
BOARD OF ADMINISTRATION
OPEN SESSION

ROBERT F. CARLSON AUDITORIUM
LINCOLN PLAZA NORTH
400 P STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 17, 2014

9:26 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

A P P E A R A N C E S

BOARD MEMBERS:

Mr. Rob Feckner, President
Ms. Priya Mathur, Vice President
Mr. Michael Bilbrey
Mr. John Chiang, represented by Mr. Terrence McGuire
Mr. Richard Costigan
Dr. George Diehr
Mr. Richard Gillihan
Ms. Dana Hollinger
Mr. J.J. Jelincic
Mr. Henry Jones
Mr. Ron Lind
Mr. Bill Lockyer, also represented by Mr. Steve Coony
Mr. Bill Slaton

STAFF:

Ms. Anne Stausboll, Chief Executive Officer
Ms. Ann Boynton, Deputy Executive Officer
Mr. Robert Glazier, Deputy Executive Officer
Mr. Douglas Hoffner, Deputy Executive Officer
Ms. Donna Lum, Deputy Executive Officer
Ms. Liana Bailey-Crimmins, Chief Information Officer
Ms. Cheryl Eason, Chief Financial Officer
Mr. Ted Eliopoulos, Interim Chief Investment Officer

A P P E A R A N C E S C O N T I N U E D

STAFF:

Mr. Matthew Jacobs, General Counsel

Mr. Alan Milligan, Chief Actuary

Mr. Wylie Tollette, Chief Operating Investment Officer

Ms. Kathleen Webb, Chief Risk and Compliance Officer

Ms. Kara Buchanan, Board Secretary

ALSO PRESENT:

Mr. Chirag Shah, Shah & Associates (via teleconference)

Mr. Tom Lussier, Lussier, Gregor, Vienna & Associates
(via teleconference)

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1 California.

2 Mr. President, that concludes my report on behalf
3 of the Committee.

4 PRESIDENT FECKNER: Thank you.

5 Item 7f is the Board Governance Committee. The
6 Committee did not meet, so there's no report.

7 That brings us to Agenda Item 8, the Proposed
8 Decisions of Administrative Law Judges. First of all, let
9 me say there's been a request to pull off 8a, as in apple,
10 and H, as in Henry. Those will be pulled off and
11 addressed separately. I do want to note for the audience
12 and for the Board that Chirag Shah, the Board's
13 independent counsel for administrative law decisions, is
14 on the phone line. If there are any questions and/or
15 comments, Chirag is there at your disposal.

16 What's the pleasure of the Board on items b, c,
17 d, e, f, g, i, j, and k?

18 BOARD MEMBER COSTIGAN: Move the items.

19 PRESIDENT FECKNER: Ms. Mathur

20 VICE PRESIDENT MATHUR: I'll second. Mr.
21 Costigan moved it, so I'll second.

22 PRESIDENT FECKNER: It's been moved by Costigan,
23 seconded by Mathur.

24 Mr. Diehr.

25 BOARD MEMBER DIEHR: Yes, I'd like to pull out

1 Item 8f for some consideration.

2 PRESIDENT FECKNER: F as in frank. Okay. So we
3 have a, f, and h that are off the docket at the moment.

4 Any other requests?

5 Seeing none.

6 Motion before you. All in favor say aye?

7 (Ayes.)

8 PRESIDENT FECKNER: Opposed, no?

9 Motion carries.

10 We'll take the others on there own on one at a
11 time. We have 8a. Ms. Mathur.

12 VICE PRESIDENT MATHUR: I move to accept the
13 recommendation of our independent Board counsel and set
14 Agenda Item 8a for a full Board hearing on the issue of
15 whether the member is entitled to have deferred
16 compensation, included in the calculation of her final
17 compensation.

18 PRESIDENT FECKNER: Thank you.

19 Mr. Jelincic.

20 We need a second.

21 BOARD MEMBER JONES: Second.

22 PRESIDENT FECKNER: It's been seconded by Jones.

23 Mr. Jelincic.

24 BOARD MEMBER JELINCIC: I have a question of our
25 counsel.

1 PRESIDENT FECKNER: Chirag, this one is for you.

2 MR. SHAH: Yes. Good morning, Mr. President.

3 PRESIDENT FECKNER: Good morning.

4 BOARD MEMBER JELINCIC: What is our role here?

5 Are we the finders of facts or is our role to make sure
6 that the rules have been applied properly?

7 MR. SHAH: Well, you are not the finders of fact
8 at this stage of the proceeding. What happens now if the
9 matter is set for a full Board hearing, is that there will
10 with be --there'd be oral arguments. So you have a
11 proposed decision before you, where the evidence and the
12 factual findings have been completed. And your decision,
13 at this point, is to determine whether to adopt the
14 decision, or to remand it for taking additional evidence,
15 or to set it for a full Board hearing and take oral
16 arguments on it.

17 BOARD MEMBER JELINCIC: Okay. In which case, I
18 would argue against setting a full Board hearing. The ALJ
19 as the finder of fact has found that the pay was publicly
20 available. He found that -- or she. I don't know
21 remember which it was -- found that the proposal did not
22 include deferred comp. So if those are the facts as found
23 by the ALJ, and our job is to say, if the -- you know,
24 were the -- was it applied properly? I think the fact --
25 the facts being what they are, the decision was proper,

1 and so I would oppose a full Board hearing. And if that
2 is successful, I will move to adopt.

3 PRESIDENT FECKNER: Were you making a substitute
4 motion or are you just stating fact?

5 BOARD MEMBER JELINCIC: I think it goes much
6 quicker if I don't make a substitute motion.

7 PRESIDENT FECKNER: Thank you.

8 BOARD MEMBER JELINCIC: If it does fail, then I
9 will be back making a motion.

10 PRESIDENT FECKNER: Any other comments on Item
11 8a?

12 Seeing none.

13 You have a motion before you. All in favor say
14 aye?

15 (Ayes.)

16 PRESIDENT FECKNER: Opposed, no?

17 (No.)

18 PRESIDENT FECKNER: Motion carries. Thank you.
19 8f, Ms. Mathur.

20 VICE PRESIDENT MATHUR: I move --

21 BOARD MEMBER DIEHR: F?

22 VICE PRESIDENT MATHUR: Sorry, on 8f?

23 PRESIDENT FECKNER: F, as in Frank.

24 VICE PRESIDENT MATHUR: I move to accept the
25 recommendations of our independent Board counsel and adopt

1 the proposed decision for Agenda Item 8f in its entirety
2 as the Board's own decision.

3 PRESIDENT FECKNER: Thank you.

4 Mr. Diehr.

5 BOARD MEMBER DIEHR: I will enter a modified
6 alternative amendment to hear it before a full Board. The
7 language -- a full Board hearing. That is item -- the
8 full language is in paragraph B of 8f.

9 The argument is that the language is very clear.
10 And Chirag Shah has made that statement in his opinion on
11 it. And that may well be the case, the language is very
12 clear in one place about the appropriate treatment of
13 this. But if you look further, there appears to be
14 conflicting -- well, there is conflicting law.

15 Furthermore, the situation is very complicated.
16 I think the intent of the rules for gaining membership --
17 or gaining health care eligibility -- excuse me, this is
18 membership in the Pension Board -- are well known. But
19 the California State University has a very great -- very
20 complex situations because of the nature of faculty
21 appointments.

22 I don't want to argue the case in this. I will
23 just tell you that Ms. Handwerker worked three consecutive
24 quarters at half time or greater. And then had she been
25 appointed for the subsequent quarter at half time or more,

1 she would have gained membership to CalPERS.

2 The subsequent quarter would have normally been
3 fall, but she taught one class in the summer. And that,
4 it's argued, broke the sequence. That is by doing more,
5 she lost her right to eligibility. There is language
6 which -- and another point --

7 PRESIDENT FECKNER: Mr. Diehr, we don't want to
8 debate it. We just want you to make your point and we'll
9 take the motion forward.

10 BOARD MEMBER DIEHR: All right. Well, I think
11 that -- I think the intention of the law is not reflected
12 in the actual language when you consider all the
13 complications, so that's why I'm moving to hear it in full
14 hearing.

15 PRESIDENT FECKNER: So you're offering a
16 substitute motion for a full Board hearing?

17 BOARD MEMBER DIEHR: Full Board hearing, yes, I
18 am.

19 PRESIDENT FECKNER: Is there a second?

20 BOARD MEMBER JONES: Yeah, I'll second.

21 PRESIDENT FECKNER: It's been moved by Diehr,
22 seconded by Jones that we take Item f as a full Board
23 hearing.

24 A motion being before you. All in favor say aye?
25 (Ayes.)

1 PRESIDENT FECKNER: Opposed, no?

2 (Noes.)

3 PRESIDENT FECKNER: Motion carries.

4 Item 8h. Ms. Mathur.

5 VICE PRESIDENT MATHUR: Thank you. I move to
6 accept the recommendation of our independent Board counsel
7 and adopt the proposed decision for agenda item -- I'm
8 sorry 8 --

9 PRESIDENT FECKNER: H.

10 VICE PRESIDENT MATHUR: -- H - thank you - in its
11 entirety as the Board's own decision.

12 PRESIDENT FECKNER: Thank you. Is there a
13 second?

14 BOARD MEMBER COSTIGAN: Second.

15 PRESIDENT FECKNER: It's been moved Mathur,
16 seconded by Costigan.

17 Mr. Jelincic.

18 BOARD MEMBER JELINCIC: I will be speaking -- or
19 I will be voting against the motion. What I think the
20 administrative law judge did was overly narrow the concept
21 of a group, and say well some people in this
22 classification didn't qualify because they weren't at the
23 top, and therefore the -- it wasn't longevity pay. But if
24 you push that to its logical extent, the fact that
25 longevity pay is available to only people after five years

1 and not after four years, the whole classification is not
2 covered. So I think it was overly restrictive in their
3 interpretation, and therefore I would -- I will be voting
4 against it.

5 PRESIDENT FECKNER: Thank you.

6 Any other discussion on the motion?

7 Seeing none.

8 All in favor, say aye?

9 (Ayes.)

10 PRESIDENT FECKNER: All opposed, no?

11 (Noes.)

12 PRESIDENT FECKNER: Motion carries.

13 Thank you, Mr. Shah.

14 MR. SHAH: Thank you.

15 PRESIDENT FECKNER: We're moving on to Item -- we
16 have -- no, I was in there.

17 Okay. We have Item 9, Board Governance and
18 Delegations. So that's the end of the proposed hearings.
19 Mr. Shah, thank you for your involvement.

20 Item 9, Board Governance and Delegations. I have
21 Mr. Slaton.

22 BOARD MEMBER SLATON: Thank you, Mr. President.

23 I'd like to make the following motion:

24 In order to improve our ability to govern CalPERS
25 by providing clarity in the relationship between this

C E R T I F I C A T E O F R E P O R T E R

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Public Employees' Retirement System, Board of Administration open session meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California.

That the said proceedings was taken before me, in shorthand writing, and was thereafter transcribed, under my direction, by computer-assisted transcription.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of September, 2014.



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