

MEETING
STATE OF CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
BOARD OF ADMINISTRATION
BOARD GOVERNANCE COMMITTEE

ROOM 1140
LINCOLN PLAZA NORTH
400 P STREET
SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 20, 2016

2:30 P.M.

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

A P P E A R A N C E S

COMMITTEE MEMBERS:

Mr. Bill Slaton, Chairperson
Mr. Richard Costigan, Vice Chairperson
Mr. Michael Bilbrey
Mr. Rob Feckner
Mr. J.J. Jelincic
Mr. Henry Jones

BOARD MEMBERS:

Mr. John Chiang, represented by Mr. Grant Boyken
Mr. Richard Gillihan, represented by Ms. Katie Hagen
Ms. Dana Hollinger
Ms. Priya Mathur
Ms. Betty Yee, represented by Mr. Alan Lofaso

STAFF:

Mr. Doug Hoffner, Interim Chief Executive Officer
Ms. Cheryl Eason, Chief Financial Officer
Mr. Matt Jacobs, General Counsel
Ms. Robert Carlin, Staff Counsel
Ms. Barbara Cody, Committee Secretary

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

ALSO PRESENT:

Mr. Michael Flaherman, University of California, Berkeley

Mr. George Linn, Retired Public Employees Association

Mr. Larry Woodson, California State Retirees

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1 P R O C E E D I N G S

2 CHAIRPERSON SLATON: All right. It's 2:30, so
3 I'm going to call the Governance Committee meeting to
4 order.

5 First order of business is role call.

6 COMMITTEE SECRETARY CODY: Bill Slaton?

7 CHAIRPERSON SLATON: Here.

8 COMMITTEE SECRETARY CODY: Richard Costigan?

9 VICE CHAIRPERSON COSTIGAN: Here.

10 COMMITTEE SECRETARY CODY: Michael Bilbrey?

11 COMMITTEE MEMBER BILBREY: Good afternoon.

12 COMMITTEE SECRETARY CODY: Rob Feckner?

13 COMMITTEE MEMBER FECKNER: Still here.

14 COMMITTEE SECRETARY CODY: J.J. Jelincic?

15 COMMITTEE MEMBER JELINCIC: Hello.

16 COMMITTEE SECRETARY CODY: Henry Jones?

17 COMMITTEE MEMBER JONES: Here.

18 COMMITTEE SECRETARY CODY: Ron Lind?

19 COMMITTEE MEMBER LIND: Here.

20 CHAIRPERSON SLATON: And also note that Mr.
21 Boyken is here, Mr. Lofaso, Ms. Hollinger, Ms. Hagen, Ms.
22 Mathur are all present. So thank you for joining us today
23 at this Governance Committee meeting.

24 Next item on the agenda is the Executive Report,
25 Matt Jacobs.

1 GENERAL COUNSEL JACOBS: Yes. Good afternoon,
2 Chairman Slaton and members of the Committee, I wanted to
3 start with a few housekeeping items. It appears we just
4 discovered that the wrong minutes had been uploaded into
5 the Board books, even though the package that was in hard
6 copy had the right set of minutes. That has been
7 corrected now, so that the correct minutes were just
8 uploaded within the last 15 or 20 minutes. So when you
9 get to that, I'll leave that to your discretion as to
10 whether to -- you want to pass over that till the next
11 meeting or whether members are ready to address that
12 today.

13 We wanted to add to the parking lot at 4b, form a
14 committee or subcommittee on sustainability based on the
15 Board's prior discussions, and also addressing the use of
16 email addresses. That would also be added to the parking
17 lot.

18 And then I did want to add that we have revised
19 attachment 2 to Agenda Item 5 on public comment. And each
20 of you should have a revision at your -- in front of you.
21 There are also copies for members of the public at the
22 back table. And the only change is that we've added an
23 asterisk in the column on adopted by APA regulation, the
24 last column, because some of the agencies that we'd
25 identified as having a 3-minute limit without adopting a

1 it pursuant to an APA regulation actually have exemptions
2 from the APA. And so we wanted to identify that, and
3 we've done that by asterisk.

4 So those are the housekeeping items. And that
5 brings us to today's agenda. We have substantively, of
6 course, Item 5 which -- sir?

7 COMMITTEE MEMBER JELINCIC: If I may?

8 CHAIRPERSON SLATON: Yes, Mr. Jelincic.

9 COMMITTEE MEMBER JELINCIC: You had said we were
10 going to add sustainability to the parking lot.

11 GENERAL COUNSEL JACOBS: It's forming a committee
12 or subcommittee on sustainability.

13 COMMITTEE MEMBER JELINCIC: Okay. And what is --
14 when you say sustainability, are you talking about
15 sustainability of the system, sustainability of within the
16 investment --

17 GENERAL COUNSEL JACOBS: We're talking about ESG
18 essentially.

19 COMMITTEE MEMBER JELINCIC: ESQ within the
20 Investments.

21 GENERAL COUNSEL JACOBS: Right.

22 COMMITTEE MEMBER JELINCIC: Okay. That was my
23 question just -- thank you.

24 GENERAL COUNSEL JACOBS: Okay. So we have Agenda
25 Item 5, which is the public comment regulation. Agenda

1 Item 6, which is Ms. Eason's proposal or the proposal
2 really that we discussed in the this Committee to improve
3 the transparency of the Board, committee and board travel
4 expenses, which the Committee discussed last month, and
5 asked us to return with.

6 And then Agenda Item 7, which is revisiting the
7 governance relationship between the Board and its federal
8 representatives, i.e., whether the Board should be
9 responsible for retaining its federal representatives, and
10 then related governance issues with respect to that
11 relationship. So those are the highlights, and that
12 concludes my report.

13 CHAIRPERSON SLATON: Thank you, Mr. Jacobs. How
14 does everybody feel about the minutes? They weren't -- I
15 think they're not too complex.

16 COMMITTEE MEMBER BILBREY: Move approval.

17 CHAIRPERSON SLATON: So I have a motion from Mr.
18 Bilbrey.

19 COMMITTEE MEMBER FECKNER: Second.

20 CHAIRPERSON SLATON: Second from Mr. Feckner.

21 Any further discussion?

22 All those in favor say aye?

23 (Ayes.)

24 CHAIRPERSON SLATON: Opposed?

25 Motion carries. Minutes are passed.

1 Thank you.

2 We move to the information consent items, and I
3 think Mr. Jacobs talked about the additions to the parking
4 lot review and you have the calendar review in your Board
5 books. Anything else anyone wishes to discuss about
6 those?

7 Okay. Then we'll move to Item number 5. And,
8 Mr. Jacobs, I'll turn it back over to you.

9 GENERAL COUNSEL JACOBS: Very good. So this is
10 an item where we proposed to initiate formal APA
11 rule-making for a regulation on public comment. The high
12 points are that it formalizes the Board's practice of
13 affording speakers 3 minutes each. It identifies the
14 proper topics for comment, and it makes clear that the
15 presiding officer, be that the President or the Chair, has
16 the discretion to increase or decrease the time limit,
17 depending on some factors that are spelled out there, and
18 also, of course, subject to a motion to suspend by any
19 member of the appropriate body.

20 The reasons for doing this are that we have
21 recently been challenged on whether we have to have a
22 regulation under Bagley-Keene in order to impose time
23 limits on public comment. Well, as I said at our last
24 meeting, I don't believe we do. The challengers now have
25 come at it a little differently, and asserted that our

1 existing practice is an underground regulation, meaning a
2 rule that the agency imposes on the public that hasn't
3 gone through the formal APA regulatory process.

4 It is not clear that the practice of limiting
5 comment to 3 minutes is an underground regulation. The
6 practice has been, or allows for, flexibility, and the
7 President and the Chairs have utilized that.

8 Case in point is that last November, Mr. Jones
9 increased the limit at last November's workshop on private
10 equity to five minutes. In addition, the statement that
11 we have on the bottom of every agenda about the limit does
12 state that the Chair may alter the time limit.

13 But in any case, to avoid any further dispute
14 over this with the attendant distraction and waste of time
15 and resources, we're now recommending that we initiate the
16 formal process. We have received one written public
17 comment from a Mr. James McRitchie, which we can either
18 make a part of the record, or at the appropriate time, I
19 can read into the record.

20 And that concludes my presentation.

21 CHAIRPERSON SLATON: All right. Well, we'll
22 start with opening it up for discussion by Committee
23 members or other Board members who are here.

24 Mr. Jelincic.

25 COMMITTEE MEMBER JELINCIC: The -- I understood

1 you to -- Matt, I understood you to say that we could --
2 you believed that the Board or a committee by policy can
3 limit time without necessarily going through the reg
4 process.

5 GENERAL COUNSEL JACOBS: Well, it's by my than
6 policy. It's essentially in the Robert's Rules, which we
7 follow unless they are contrary to what we already have in
8 place. And Robert's Rules basically says that any Board
9 member can have a vote to suspend or a vote to challenge
10 the Chair's exercise of discretion. He or she would need
11 a second, and then it would be voted on. But that's the
12 way the Robert's Rules works.

13 COMMITTEE MEMBER JELINCIC: Okay. And so that's
14 by adoption of the Board or the Committee, because they
15 adopted Robert's Rules.

16 Could the Chair initiate a limit on their own, do
17 you believe?

18 GENERAL COUNSEL JACOBS: The Chair. You mean a
19 limit other than the one that we're proposing in this?

20 COMMITTEE MEMBER JELINCIC: Well, right now,
21 in -- just by policy, not necessarily by reg. I mean,
22 once we do it by reg, it becomes clear. But could a Chair
23 do it by policy?

24 GENERAL COUNSEL JACOBS: Well, I don't know what
25 you mean by policy, because a policy would apply more

1 broadly than just to the particular item before him or
2 her. So the -- a presiding officer could say in light of
3 the nature of this item, the number of speakers I -- in
4 the exercise of my discretion, I think 3 minutes is an
5 appropriate time limit for public comment on this item.

6 COMMITTEE MEMBER JELINCIC: Okay. And then --

7 GENERAL COUNSEL JACOBS: And then that would be
8 subject to challenge by a Committee member or Board
9 member, as the case may be.

10 COMMITTEE MEMBER JELINCIC: Okay. And the -- in
11 your write-up, at the top of page 2, you say that,
12 "CalPERS generally provided members of the public with 2
13 minutes of public comment", in history.

14 GENERAL COUNSEL JACOBS: That's what I understood
15 to be the practice previously.

16 COMMITTEE MEMBER JELINCIC: And, you know, I've
17 been around for 30 years. I don't remember a 2-minute
18 limit. That doesn't mean --

19 COMMITTEE MEMBER FECKNER: It was two.

20 COMMITTEE MEMBER JELINCIC: But I was just -- so
21 where did you get the two minute?

22 GENERAL COUNSEL JACOBS: The gentleman to your
23 right.

24 COMMITTEE MEMBER FECKNER: From me.

25 (Laughter.)

1 COMMITTEE MEMBER JELINCIC: Okay. That answers
2 the question.

3 (Laughter.)

4 CHAIRPERSON SLATON: Okay. Mr. Lind.

5 COMMITTEE MEMBER LIND: Thank you. Just a
6 question on the proposed regulation, the authority of the
7 Chair or the President to extend the time limits. Is that
8 on a -- is that intended to be on a speaker-by-speaker
9 basis or is that overall? Say at the beginning of a
10 meeting, we're going to have a 4 minute limit or a 2
11 minute limit or could it be either one?

12 GENERAL COUNSEL JACOBS: That's a good question,
13 and I -- it has to be overall. It would be problematic to
14 say, for example, you speaker X gets 2 minutes, and you
15 speaker Y get 4 minutes, because you get into how that
16 decision was made, whether that was based on viewpoint, or
17 some other kind of predilection or prejudice, and so it
18 would have to be by time for each specific -- well,
19 overall.

20 COMMITTEE MEMBER LIND: Which makes sense to me,
21 and I agree with that. Although, we -- we have seen -- in
22 fact, we've seen it this week already where, you know, the
23 Chair will let somebody go over 30 seconds or 40 seconds
24 to, you know, sort of complete a thought or whatever.

25 So how do we make sure that we're not precluding

1 that, because sometimes it just makes natural sense to let
2 somebody finish their paragraph or whatever for 20 or 30
3 seconds.

4 GENERAL COUNSEL JACOBS: Well, I don't think it's
5 inconsistent to let somebody finish their thought or to
6 gradually move them toward finishing. I think that that
7 would be the practice for every speaker. So the fact that
8 one speaker ends at 30 seconds doesn't mean that the Chair
9 could then say -- couldn't allow the next speaker to
10 finish his or her sentence, and then to kind of gently
11 interrupt and move them toward completion.

12 COMMITTEE MEMBER LIND: Okay. Then my other
13 question is this issue of a Board member being able to
14 make a motion to suspend the limit. So that -- I guess
15 that would happen in the middle of somebody trying to go
16 beyond their 3 minutes. How does that impracticality
17 work? I mean, you know, is it a -- and I'm pretty good at
18 Robert's Rules of Order, but I don't remember this, is it
19 a debatable motion or not?

20 GENERAL COUNSEL JACOBS: It is a debatable
21 motion, but I don't think it would be well taken in the
22 middle of somebody's comments. And it could be well taken
23 after the first person's comments, I suppose, because then
24 you could permit them additional time, and then permit
25 each additional speaker the same amount of additional

1 time.

2 The problem after the first speaker goes, and is
3 subject to that, say, 3 minutes, is that you can't really
4 then say, well, the next speaker has convinced me that we
5 ought to go 5 minutes, because the first speaker was
6 limited to 3 minutes, and then you get into problems of
7 potential bias and viewpoint non-neutrality.

8 COMMITTEE MEMBER LIND: Thank you.

9 CHAIRPERSON SLATON: Mr. Costigan.

10 VICE CHAIRPERSON COSTIGAN: So, Mr. Jacobs, just
11 a couple questions. One, similar to the way the
12 legislature operates, the Appropriations Committee will
13 limit to 2 speakers, then everybody after that is for or
14 against a piece of legislation, so they do cap the number
15 of folks that can speak. Have we looked at that?

16 I'm just curious, not that we ever get lots of
17 folks coming, but --

18 GENERAL COUNSEL JACOBS: I don't think we've
19 looked at that, because I don't think that that's probably
20 something that we could do.

21 VICE CHAIRPERSON COSTIGAN: All right. And then
22 in reading, I just have a question, because I like
23 wordsmithing. A, "Individual members of the public shall
24 be afforded up to 3 minutes for public comment on a single
25 agenda item and shall be limited to a cumulative speaking

1 time of no more than nine minutes per meeting of a body.

2 So if I speak one minute, maybe -- it says
3 that -- so I guess a couple things is, per meeting of a
4 body, is that each committee? Is that so if I speak at
5 the Investment Committee, Pension and Health, Finance and
6 Admin, Risk and Audit, so I speak 6 times, that's 18
7 minutes, who's the enforcer of, no, you can't speak more
8 than 9 minutes?

9 GENERAL COUNSEL JACOBS: Well, the 9 minutes
10 applies to each committee, so there's no enforcement
11 necessary.

12 VICE CHAIRPERSON COSTIGAN: Good. Could we make
13 that clear, because it says per meeting.

14 GENERAL COUNSEL JACOBS: Well, it is clear,
15 because if you look at definition of one, a body means the
16 Board or a State body created by the Board that is subject
17 to Bagley-Keene, such as a committee or subcommittee of
18 the Board.

19 VICE CHAIRPERSON COSTIGAN: So I just want to be
20 clear. And so we're also then limiting them to no more
21 than 3 items on an agenda, is the way I read this.

22 GENERAL COUNSEL JACOBS: Yes.

23 VICE CHAIRPERSON COSTIGAN: -- per meeting.

24 GENERAL COUNSEL JACOBS: Yes.

25 VICE CHAIRPERSON COSTIGAN: Okay. And is

1 there -- what's the basis for that?

2 GENERAL COUNSEL JACOBS: Let me turn to my
3 colleague Robert Carlin, my lawyer.

4 STAFF COUNSEL CARLIN: Robert Carlin, CalPERS
5 staff in the Legal Office. We drafted this regulation
6 partly in mind with the future, and having something that
7 would be applicable going forward far into the future.

8 So the idea was that up to 9 minutes gives most
9 people -- in our experience, most people don't comment on
10 more than just a couple of items. The Chair always has
11 the discretion to increase the time, if there's a need for
12 that.

13 VICE CHAIRPERSON COSTIGAN: What about the number
14 of opportunities to speak? So if there are 10 items on
15 the agenda, what we're saying is there are only -- they
16 have to pick which 3 they'd like to speak on. But if you
17 have a representative of retirees, for example, and there
18 are 6 items, we've limited them to 3. Is there still the
19 discretion of the Board Chair or the Committee Chair to
20 say I'm going to waive that.

21 I mean, back to Mr. Lind's kind of Robert's Rules
22 of order, how would you address it?

23 STAFF COUNSEL CARLIN: There is the discretion to
24 increase that limitation. So the chair's ability to
25 increase the time limits applies to all the time limits

1 that are provided

2 VICE CHAIRPERSON COSTIGAN: Time limits and
3 opportunities to speak.

4 STAFF COUNSEL CARLIN: So if we increase the
5 amount of time that was available, we could increase the
6 number of items someone could speak on.

7 GENERAL COUNSEL JACOBS: But, yeah, the short
8 answer is time limits and opportunities to speak.

9 STAFF COUNSEL CARLIN: Another option as well,
10 Mr. Costigan, would be that someone could say I'm going to
11 speak just for 1 minute on this item, 2 minutes on another
12 item, and in that way allocate their time. They might
13 make it more difficult for the Chair to manage, but the
14 way it's structured right now it would accommodate that as
15 well.

16 VICE CHAIRPERSON COSTIGAN: Thank you.

17 CHAIRPERSON SLATON: I think -- I'd just like to
18 insert a comment here. At the Board that I'm on SMUD,
19 which is not subject to Bagley-Keene, but is subject to
20 the Brown Act, and there's a lot of similarity between the
21 two acts. Local governments are subject to the Brown Act.
22 We have the 3, and maximum 3 items, so a 9 minute total.
23 And we also do, what Mr. Lind was suggesting, which I
24 think is appropriate here too, where -- and I've suggested
25 maybe the microphone should not just be automatically cut

1 off, that it should be at the discretion of the Chair
2 regarding the microphone volume, which we're capable of
3 doing. And that just out of common courtesy allow people
4 to finish their thought.

5 And actually at SMUD, we have a series of
6 procedures that were given if the speaker does not
7 cooperate with the Chair regarding the limits. Hopefully,
8 people are cordial and will participate in a business-like
9 manner, and finish up their comment. But I think it's
10 just a cordial way to operate a meeting to make sure
11 people get a chance to complete their thought.

12 Other comments from either Committee members --
13 and by the way, the motion that you were talking about to
14 reconsider to change the time, the voting on that would be
15 by Committee members, not by anyone at the dais, is that
16 correct?

17 GENERAL COUNSEL JACOBS: Correct.

18 CHAIRPERSON SLATON: And just for clarification
19 purposes.

20 Okay. I see no other comments from -- Mr. Lind.

21 COMMITTEE MEMBER LIND: Not a comment. I'm going
22 to make the motion that we move forward on this rule in
23 the rule-making process.

24 CHAIRPERSON SLATON: Okay. Yeah. Go. We
25 actually have it written out. I'll give it to you, and

1 then we do have public comment. So before we proceed with
2 anyone vote, we'll take the public comment, but if you'd
3 like to make the motion, that's fine.

4 COMMITTEE MEMBER LIND: Okay. I move to approve
5 the initiation of the rule-making process to establish
6 rules governing public comment at Board meetings as
7 described more fully in Agenda Item 5 in attachment 1.
8 Just what I meant to say.

9 (Laughter.)

10 COMMITTEE MEMBER FECKNER: Second.

11 CHAIRPERSON SLATON: Okay. Motion from Mr. Lind,
12 second from Mr. Feckner. No -- yeah, Mr. Feckner.

13 So we have a motion and a second on the floor.
14 We have -- yes, Mr. Jones.

15 COMMITTEE MEMBER JONES: Just a clarification
16 question. The -- does that incorporate both agenda items
17 and public comment at the end of a meeting?

18 CHAIRPERSON SLATON: I would interpret the 3 --

19 GENERAL COUNSEL JACOBS: Yes.

20 CHAIRPERSON SLATON: -- opportunities included
21 public comment at the end, is that correct?

22 COMMITTEE MEMBER JONES: I just wanted to make
23 sure.

24 GENERAL COUNSEL JACOBS: Yes.

25 CHAIRPERSON SLATON: Is that how we're -- yeah,

1 that's the interpretation.

2 Mr. Jelincic.

3 COMMITTEE MEMBER JELINCIC: I would like to
4 propose an amendment, and it's a two-part amendment, and
5 then I'm going to ask --

6 CHAIRPERSON SLATON: Well, could I ask you to --
7 why don't we have -- before we get into motions and
8 counter motions and amendments, maybe want to hear the
9 speakers. Would you -- is that okay? Because otherwise
10 we're going to get into --

11 COMMITTEE MEMBER JELINCIC: They might want to
12 comment on the amendment. But yeah, I'm willing to wait.

13 CHAIRPERSON SLATON: All right. Let's hear from
14 the speakers first, if that's, Mr. Jacobs, okay?

15 GENERAL COUNSEL JACOBS: Sure. Yeah.

16 CHAIRPERSON SLATON: All right. First, Mr.
17 Flaherman. And the fact that we don't have a regulation,
18 still the limit is 3 minutes. And there's a red, green,
19 and yellow light up here that you'll be able to see.

20 MR. FLAHERMAN: Good afternoon. I'm Michael
21 Flaherman. I'm a visiting scholar at UC Berkeley. I was
22 a member of this Board from 1995 to 2003. Mr. Chairman,
23 respectfully, I would ask for you to waive the 3-minute
24 limit.

25 CHAIRPERSON SLATON: I -- we have -- it's 8

1 minutes to 3:00. We have 3 speakers here. We have
2 another meeting following this.

3 MR. FLAHERMAN: I don't intend to speak for an
4 extended period of time. The issue is that the Board has
5 never taken any action whatsoever to enshrine the 3-minute
6 limit in --

7 CHAIRPERSON SLATON: No, I understand that's --

8 MR. FLAHERMAN: -- in policy. We're not even
9 talking about regulation, in policy.

10 CHAIRPERSON SLATON: I understand that's part of
11 your -- that's part of your argument. I understand that.
12 I'll tell you what I'm going to do. We have 3 speakers,
13 unless there's serious objection, I'm going to allow 4
14 minutes reach. Is that -- without objection, that's what
15 we'll do. So you now have -- we're going to reset the
16 clock. You have 4 minutes.

17 MR. FLAHERMAN: Well, I would -- I'm sorry to be
18 so procedurally a stickler here. I would ask, as a
19 courtesy, that you would have the minutes note my
20 objection to the imposition of a limit.

21 CHAIRPERSON SLATON: We're recording the meeting.
22 So it's in the --

23 MR. FLAHERMAN: Could the minutes note that?

24 CHAIRPERSON SLATON: We have a recorder, so the
25 recorder is taking down --

1 MR. FLAHERMAN: But you won't order the minutes
2 to reflect that?

3 CHAIRPERSON SLATON: The minutes are going to be
4 as they're spoken.

5 MR. FLAHERMAN: No, that's not true. That's not
6 how the minutes are composed and you and I both know that.

7 CHAIRPERSON SLATON: Do we have a recorder.

8 MR. FLAHERMAN: Look. Look. Here's the --
9 here's the issue.

10 CHAIRPERSON SLATON: You're time is being used
11 up.

12 COMMITTEE MEMBER JELINCIC: This is the
13 transcript.

14 CHAIRPERSON SLATON: Transcript.

15 COMMITTEE MEMBER JELINCIC: And he's talking
16 about the minutes.

17 MR. FLAHERMAN: Here's the issue right, which is
18 that page 2 of the agenda item says that there is a
19 3-minute policy, and that in the past there was a 2-minute
20 policy. There is no 3-minute policy. This Board has
21 never acted when -- and I'm not talking about regulation,
22 but just even as an internal matter of policy, the Board
23 has never acted to impose any kind of policy.

24 What happened was that in May of 2012 your staff
25 started printing on the agendas that there was a 3-minute

1 time limit. That just happened. Now, I thought you guys
2 were in charge. I thought you guys were in charge, but I
3 hear -- you know, I hear Mr. Jacobs talking about this as
4 a decision that we made. And when he's using the royal
5 "we", it's not really clear whether he's talking about we,
6 the staff, or you?

7 Does anybody here want to raise their hand and
8 say they were involved in a decision to impose a 3-minute
9 time limit?

10 (Hands raised.)

11 MR. FLAHERMAN: Okay. So it was made by the
12 Board President and you. Okay. Well, that's very
13 helpful. But again, there was no action of the Board,
14 right? So, yet, this is held out as a policy.

15 Now, even further still, we have a statement from
16 your legal staff that previously there was a 2-minute time
17 limit.

18 Now, I have the circular letters going back to
19 2004. I have one from every year. I'd like to -- I'd
20 like to have this conveyed to the Chair. Could I have
21 this conveyed to the Chair?

22 I'll walk it over. So you will see that on these
23 circular letters that there was never any notice of any
24 time limit before May of 2012. So the statement that you
25 guys are being generous by giving a 3-minute time limit,

1 because you used to be much tougher and enforce a 2-minute
2 time limit. That's simply not true. It's not true.

3 So here's, I think, the bottom line, right? So
4 we all read the New York Times on Sunday, and you guys are
5 getting raked off -- across the coals, a very unfair
6 article written by Marry Walsh, a woman who has been very
7 generous over a period of decades. I knew her in 1997, or
8 something, right, in her coverage of this pension system,
9 right? And she's not your friend anymore.

10 And who appears in the article? Bill Sharpe, a
11 man who I thought was your friend. He was your consultant
12 for decades, and he's ripping you over the coals. You
13 guys need friends, and you're losing them day by day. The
14 System is dying day by day, because the people who are
15 your friends aren't standing up for them.

16 And when you cut them off with glee -- I mean,
17 the fire in the eye that I have seen in some of you in
18 cutting people off at the stroke of 3 minutes is really
19 just sad. It's just sad. And your staff -- you know,
20 your staff has left a lot of things.

21 Now, I found an Attorney General opinion 92-212
22 where the Attorney General is opining with respect to the
23 Brown Act, but Mr. Jacobs acknowledges it's basically the
24 same thing, that inherently under the law, the Chair of a
25 meeting has the ability to cutoff anybody who's

1 repetitious or --

2 CHAIRPERSON SLATON: Mr. Flaherman --

3 MR. FLAHERMAN: -- vexatious --

4 CHAIRPERSON SLATON: -- Please complete your
5 thought, because your time has expired.

6 MR. FLAHERMAN: And so really that was how the
7 system operated for decades. For decades, there was no
8 time limit. People who were your trusted friends came and
9 gave you your thoughts. And you already have the
10 authority to do whatever you want to people who really
11 cause trouble. And I would urge you just reject this
12 entire idea.

13 Thank you.

14 CHAIRPERSON SLATON: All right. Thank you.

15 The next speaker is George Linn, and you'll have
16 up to 4 minutes.

17 MR. LINN: I'll try not to use all 4.

18 Actually, the last time I spoke at the last
19 committee meeting, I think is the first time I'd ever run
20 up over 3 minutes, because normally I can say what I want
21 to say in less time.

22 However, I'm a member of an organization called
23 SCORE, which is a retiree coalition, and we meet once a
24 month before the Board meeting -- actually, on Monday,
25 during the Investment Committee meeting unfortunately.

1 But anyway, we discussed this at length, and we,
2 as stakeholders, find that this is kind of sewing our lips
3 when we have things that we need to say. And when we're
4 talking about only 3 times can you speak for nine minutes,
5 it depends on how long the agendas are. Some of the
6 agendas have 20 items on them. And I think that that, all
7 by itself, is something that should be reconsidered.

8 You know, we try and work with the Board, and we
9 try and communicate to the Board issues that we feel are
10 important for them to know. And sometimes you have to set
11 a stage in order to provide the information that needs to
12 be presented, because some of these things come out of the
13 darkness. Okay.

14 So I would suggest that we get rid of the nine
15 minutes and reconsider whether it's -- I don't know what
16 the real number is, 3, 5, but it's certainly not 10,
17 because you should be able to say succinctly what you need
18 to say in probably, I would say, max five minutes. So I
19 would urge you to reconsider this. We as stakeholders for
20 the organization want to support you, and we want to
21 communicate with you. The best way to do that is at
22 Committee meetings and at Board meetings.

23 Thank you.

24 CHAIRPERSON SLATON: Thank you very much.

25 The next speaker is Larry Woodson.

1 MR. WOODSON: Mr. Chair and Board members, thank
2 you for the opportunity to speak. I'm Larry Woodson with
3 California State Retirees.

4 Can you hear me?

5 CHAIRPERSON SLATON: Sure can.

6 MR. WOODSON: I'll get a little lower. We are
7 strongly against the 3-minute time limit as proposed in
8 this regulation. We would like to see a more reasonable
9 time, something like five minutes per person, not that
10 everyone will take five minutes. But as your table shows,
11 the ARB, Department of Managed Health Care, and I'm aware
12 of a number of other State agencies that allow greater
13 than 3 minutes.

14 I helped conduct public hearings for a number of
15 years for the Department of Toxic Substances Control. And
16 we allowed five minutes per speaker and 10 minutes per
17 organization. The organizational time was based on the
18 fact that organizations have many members, and we felt
19 like they were due a little more time. So that is
20 something you might consider as well.

21 The issues before CalPERS, before the Board, and
22 the staff are extremely complex. When stakeholders commit
23 the time to research and analyze these issues, and come
24 before you to speak, they deserve more than 3 minutes.
25 Rarely are there more than 2 or 3 commenters in a session.

1 I think we had one this morning in the Pension and Health
2 Benefits Committee meeting. So it's not like even the
3 cumulative time is a burden on the Board.

4 I'm going to state the obvious that those of us
5 who paid into retirement for 20, 30, 40 years have a lot
6 at stake, and you are the guardians of our money. You
7 make decisions that affect our livelihood, our health, and
8 we're not just a member of John Q public. We're deeply
9 affected stakeholders and deserve more than 3 minutes
10 before the clock times us out.

11 So I would just close by saying that this
12 proposed regulation really kind of smacks of closing the
13 door, shutting us out, and I would ask that the Board do
14 better than that, and consider an alternative more
15 reasonable time limit.

16 Thank you.

17 CHAIRPERSON SLATON: Thank you very much.

18 Just one comment. I used the word -- Mr.
19 Flaherman referred to minutes, and I was referring to
20 transcript. We'll make sure that the minutes reflect the
21 objection you had. So we'll make sure that's reflected in
22 the minutes.

23 And, Mr. Jacobs, could you talk just a moment
24 about this fact that it's a regulation process? So this
25 is not something we vote on today, other than to start the

1 process. So could you comment on that?

2 GENERAL COUNSEL JACOBS: Well, that's what it
3 does. Before I do comment on that though, I wanted to get
4 back to Mr. McRitchie's comment, and whether you want to
5 just make that part of the record. I believe that he sent
6 it to all members of this Committee, so you have it. But
7 the alternative would be for me to read it into the
8 record.

9 CHAIRPERSON SLATON: No, I meant just the
10 objection on the meeting -- on how much time.

11 GENERAL COUNSEL JACOBS: No, no, no. I'm talking
12 about McRitchie's email that he sent us.

13 CHAIRPERSON SLATON: Oh. Well, if we have it, it
14 can just go into the record. Is that or -- do you have to
15 read it? How long is it?

16 CHAIRPERSON SLATON: Just submit it. Is it okay?

17 GENERAL COUNSEL JACOBS: If everybody got it,
18 yes.

19 CHAIRPERSON SLATON: Yeah, everybody got it, so
20 we'll just submit it.

21 GENERAL COUNSEL JACOBS: Okay. So we'll make it
22 a part of the record. Very good.

23 CHAIRPERSON SLATON: Thank you very much.

24 Okay. Now, the regulatory process.

25 GENERAL COUNSEL JACOBS: Well, again, let me

1 refer to my colleague. He's the expert on that stuff.

2 STAFF COUNSEL CARLIN: So, Mr. Slaton, if the
3 Committee approves to go forward with the rule-making
4 process, and then the Board ratifies that decision, what
5 would happen is in the next 2 weeks or so, we would put
6 forward a regulatory package to the Office of
7 Administrative Law. That would kick everything off. That
8 package consists of the text of the regulation that would
9 be approved, a notice of proposed rule-making, which is a
10 document that goes through sort of the reasons and
11 rationales behind why we're doing the rule-making process,
12 what it's intended to achieve, how members of the public
13 are able to participate, and there's a few other documents
14 in that package as well.

15 That package would then be out there for 45 days.
16 Members of the public would be able to submit written
17 comments. There's the ability for a public hearing to be
18 held, as this Board is familiar with. We've had a few of
19 those over the years for regulations that we've had. And
20 members of the public would be able to show up then and
21 also express their comments orally as well.

22 We would then take that entire -- synthesize
23 everything together, and then that would be submitted to
24 the Office of Administrative Law for their review. They
25 would have 30 days to review it. And if they approved it,

1 it would then go into effect shortly thereafter.

2 CHAIRPERSON SLATON: Okay. Does this body today
3 have the ability to modify the recommended rule --

4 STAFF COUNSEL CARLIN: The language.

5 CHAIRPERSON SLATON: -- the language as it is
6 right now?

7 STAFF COUNSEL CARLIN: Absolutely.

8 CHAIRPERSON SLATON: Okay. I just wanted to make
9 sure of that. Okay. I just wanted to get a little bit of
10 a feel from Committee members, other Board members here
11 regarding -- you know, it's two separate issues. One is
12 the number of minutes, which is obviously can be set or
13 adjusted by the Chair of the meeting. The other one is
14 the 9 minute total. Is there any sense regarding anyone
15 who wishes to make a change to the 9-minute total in the
16 regulation as it's presented?

17 Mr. Jones.

18 COMMITTEE MEMBER JONES: Yeah. Thank you, Mr.
19 Chair. Yeah, I -- the 9 minutes, that means that it's
20 only 3 items that an individual can talk to. And as it
21 was suggested, sometimes we do have a very lengthy agenda,
22 so I would be in favor of not limiting it to just 3
23 opportunities. I would -- you know, I would prefer to
24 just say 3 minutes on each item, as opposed to 9 minutes
25 in totality.

1 CHAIRPERSON SLATON: Okay. Well, the Chair does
2 have the flexibility to make sure that the discussion is
3 on topic, so it's not like someone could take the
4 microphone and then spend 3 minutes talking about
5 another -- a different agenda item. They do have to keep
6 it on topic.

7 COMMITTEE MEMBER JONES: Yeah, no, but I meant if
8 there were 5 items on the agenda that the member had an
9 interest, and after they talked for the first 3, then they
10 could not talk on the next 2.

11 CHAIRPERSON SLATON: I gotcha. So how do people
12 feel about that?

13 Oh, Mr. Jelincic, you were going to make a motion
14 at one time earlier.

15 COMMITTEE MEMBER FECKNER: Are we going to finish
16 this first first or -- finish your question first?

17 CHAIRPERSON SLATON: Yeah, Mr. Jelincic, why
18 don't you address the question first.

19 MR. JELINCIC: Yeah. I'm perfectly willing to
20 wait, and make my amendment after this discussion. But in
21 terms of the 9, which was -- had not been part of my
22 intended motion, I agree with Henry. I mean, it makes
23 sense to limit it per item, and maybe just strike the
24 cumulative.

25 CHAIRPERSON SLATON: Okay. Mr. Feckner

1 COMMITTEE MEMBER FECKNER: I agree, same thing.

2 CHAIRPERSON SLATON: Mr. Bilbrey.

3 COMMITTEE MEMBER BILBREY: Same thing.

4 CHAIRPERSON SLATON: I can pretty much count
5 noses. I think -- I think I would -- given the
6 comments -- the public comments that were made, I'd feel
7 the same way. I think we should drop that.

8 GENERAL COUNSEL JACOBS: Very good. That's
9 easily done. And we can still bring it to the Board
10 tomorrow.

11 CHAIRPERSON SLATON: Okay. So further --

12 GENERAL COUNSEL JACOBS: With that -- So I think
13 that would be an amendment to Mr. Lind's motion.

14 CHAIRPERSON SLATON: Is that a friendly
15 amendment?

16 COMMITTEE MEMBER LIND: I'll accept that as a
17 friendly amendment.

18 CHAIRPERSON SLATON: All right. So that's what
19 we have. The motion right now is to move this regulatory
20 process forward with the change of deleting the 9-minute
21 total restriction.

22 Mr. Jelincic.

23 COMMITTEE MEMBER JELINCIC: And I actually have 2
24 minutes -- 2 amendments. I will make them both and then
25 ask to divide that question, because they're kind of

1 independent.

2 In (b)(2)(A), rather than limit it to 3 minutes,
3 limit it to 5 item. And then I would propose adding a
4 (b)(5), which says that, "If a member of the public is
5 cutoff, a motion to extend the time is in order",
6 because -- and the -- I think the five -- I'm going to ask
7 that they be divided, so we can vote on them separately.
8 But the 5 minutes, I think -- you know, most of the things
9 we do, you can probably do in 3 minutes.

10 CHAIRPERSON SLATON: Can you speak into the mic,
11 because we can't hear you.

12 COMMITTEE MEMBER JELINCIC: Oh. Most of the
13 things that -- most of the comments we get, you can
14 probably do in 3 minutes. If your complaint is that your
15 favorite drug has been eliminated from the formulary, that
16 doesn't take long. But many of the issues we address are
17 complicated. And so I really would encourage the 5
18 minutes.

19 In terms of the second part of the amendment, the
20 meeting belongs to the Committee not the chairs. And if
21 the Committee, as a whole, decides that they want to
22 extend the comments of somebody because they think they're
23 making a particularly good point, or they clearly have
24 more to say, the Committee should be able to make that
25 decision.

1 CHAIRPERSON SLATON: I think -- well, let's just
2 bifurcate these things. Let's just talk first about the 5
3 minute -- changing the 3 to 5. Let's just deal with that
4 first. So --

5 COMMITTEE MEMBER JELINCIC: That's why I was
6 suggesting dividing the question.

7 CHAIRPERSON SLATON: I know. Comments from Board
8 members on that?

9 Mr. Lind.

10 COMMITTEE MEMBER LIND: I think 3 is enough, and
11 I think 3 is consistent with most of the other examples
12 we've looked at. And while I agree we have rarely had a
13 lot of people, at least in the time that I've been at
14 CalPERS, that have come in, you know, big numbers of
15 people. I come from a board, a college district board,
16 where we -- it was not unusual, at least once a year, to
17 have 30 plus people come to a meeting.

18 And the difference between 3 and 5 minutes is the
19 difference potentially between a 90-minute session doing
20 this, and 2½ hours. So sometimes 3 minutes or 5 minutes,
21 it can be a big difference. So I would propose we stay
22 with 3.

23 CHAIRPERSON SLATON: Well, and I'd add one other
24 aspect is depending on the issue at hand and the
25 complexity of the issue, the Chair has the ability to, at

1 the initiation of the meeting, to make it 4 minutes a
2 piece, like I did today, or make it five or more. So that
3 is the discretion of the Chair under the regulation.

4 Other comments regarding 5 minutes?

5 VICE CHAIRPERSON COSTIGAN: So just a couple
6 comments. First of all, I would support the 3 minutes for
7 the time being. If it's a problem, it can always come
8 back. And I will tell you at SPB we shortened. Five
9 minutes is actually what we give appellants and
10 respondents to give briefs on. And 5 minutes in a legal
11 argument is a long time. So I'm just saying we do a 10,
12 5. We've actually reduced the amount of time that people
13 present on it. I think 3 minutes -- I understand the 5.
14 If 3 becomes a problem, you can always revisit the item.

15 And right now, I think, even with what Mr. Lind
16 said, if you can't do it in 3 minutes, you really -- it's
17 a different issue. So I would support the 3, so I would
18 oppose the motion and support the 3.

19 CHAIRPERSON SLATON: Okay. So it -- is it a
20 motion or can we take a straw pole about whether -- how do
21 you feel, Mr. Jelincic? You want a vote?

22 COMMITTEE MEMBER JELINCIC: Yeah, I would like a
23 vote on it, and probably even ask for a roll call vote.

24 COMMITTEE MEMBER JONES: Nobody seconded it.

25 CHAIRPERSON SLATON: Okay. Did it get a -- if

1 you made this as a substitute motion --

2 COMMITTEE MEMBER JELINCIC: Well, it's an
3 amendment. It's not a substitute motion.

4 CHAIRPERSON SLATON: It's an amendment.

5 COMMITTEE MEMBER JELINCIC: Yeah.

6 CHAIRPERSON SLATON: Does it have a second?
7 Okay. That one dies for lack of a second.

8 COMMITTEE MEMBER JELINCIC: Okay.

9 CHAIRPERSON SLATON: All right. So the second
10 item that you raised, could you repeat that one?

11 COMMITTEE MEMBER JELINCIC: That if a member gets
12 cut -- if a member of the public is cutoff, a motion to
13 extend the time is in order.

14 CHAIRPERSON SLATON: Okay. And our counsel spoke
15 to the issue of the difficulty of doing that, if it's not
16 the first person who speaks in adjusting the time.

17 Mr. Jacobs.

18 GENERAL COUNSEL JACOBS: Yeah, I think -- I mean,
19 what's clear under the law is that any kind of limit has
20 to be viewpoint neutral. So if you start having -- giving
21 discretion to the Committee or the board as to who gets
22 more time, and, in fact, to use Mr. Jelincic's example, he
23 said if somebody is making a particularly good point, you
24 might want to extend it. Well, that particularly good
25 point is exactly the problem, because it then becomes kind

1 of viewpoint specific, as to who's going to get extra
2 time.

3 And so I think it's really problematic under
4 existing law to have that kind of discretion. You can
5 have the discretion at the outset, but once you've gone
6 and said it's going to be 3 or 4 or 5 or whatever it is,
7 it's going to be problematic to then have a provision that
8 would allow that to be suspended by -- on an individual
9 speaker basis.

10 VICE CHAIRPERSON COSTIGAN: Well, I just have a
11 question, Mr. Jelincic and Mr. Jacobs. What I -- at least
12 what I understand, and Mr. Lind correct me on Robert's
13 Rules of Order, what Mr. Jelincic is asking that the maker
14 of the motion that the motion is in order. And then the
15 motion is not debatable, is that what you're trying to --
16 what are you trying to get at, Mr. Jelincic?

17 COMMITTEE MEMBER JELINCIC: I'm perfectly willing
18 to specify that it's not debatable. But if somebody on
19 the Committee, because it's a complex issue and somebody
20 on the Committee says I need more time to hear the rest of
21 that argument.

22 VICE CHAIRPERSON COSTIGAN: But that motion is
23 always in order, is it not? So if someone is speaking --
24 if Mr. Linn is speaking for 3 minutes, and I want to hear
25 it, I'll move to extend time. Is that a motion that's

1 always in order, debatable, non-debatable?

2 GENERAL COUNSEL JACOBS: It's not in order if Mr.
3 Linn is the 3rd or 4th or 5th speaker and all the other
4 speakers have already gone, and have either tailored their
5 remarks to the 3-minute rule or -- and they may have left.

6 VICE CHAIRPERSON COSTIGAN: So the point I'm
7 making is, is the difficulty -- because you're
8 disparage -- or your -- the folks that came in the first 2
9 or 3 are now at a disadvantage --

10 GENERAL COUNSEL JACOBS: Right.

11 VICE CHAIRPERSON COSTIGAN: -- because I, as an
12 individual Board member, might like your point of view,
13 but I don't like Doug's. So I didn't give Doug an
14 extension. That's normally what happens.

15 (Laughter.)

16 VICE CHAIRPERSON COSTIGAN: And then, Matt, I
17 would make the motion what Mr. Jelincic is trying -- the
18 point he's trying to make is that third speaker making the
19 motion it's an order, not debatable. And actually the
20 position I think we'd want to take is not to make that
21 motion. That really needs to happen at the beginning --

22 GENERAL COUNSEL JACOBS: Right.

23 VICE CHAIRPERSON COSTIGAN: -- of the speakers,
24 not during the number of speakers, the 4th or 5th speaker.
25 Is that correct, Mr. Jelincic?

1 COMMITTEE MEMBER JELINCIC: If somebody's making
2 a complex argument, I want to be able to say let's hear
3 the rest of it.

4 CHAIRPERSON SLATON: Can't do it.

5 COMMITTEE MEMBER JELINCIC: The -- there is -- I
6 do sympathize with the argument that well, you know, the
7 people who went before kept it to 3, but they also may not
8 have been making as complex an argument. So I think the
9 meeting belongs to the Committee, and I just think the
10 Committee ought to have a chance to deal with it.

11 CHAIRPERSON SLATON: Well, you know, we'll kind
12 of do the same process here and see if we have a second.

13 But I would just comment that we've been advised
14 by counsel that we have to treat people the same or
15 content neutral. The time to raise that argument is at
16 before public comment of that particular item. If a Board
17 member feels that they want to hear more from the public
18 on a particular item, then that's the time to raise that
19 motion.

20 I think it's incumbent upon the Chair to indicate
21 how much time is allocated for this particular item, and
22 then the Board can -- the Committee can have its will, if
23 it chooses to change that, so -- but with that, would you
24 like to still continue with your motion?

25 COMMITTEE MEMBER JELINCIC: Yes.

1 CHAIRPERSON SLATON: Or your amendment.

2 Okay. Is there a second to the amendment?

3 All right. Fails for lack of a second.

4 COMMITTEE MEMBER JELINCIC: Thank you.

5 CHAIRPERSON SLATON: Okay. So now we go back to
6 the original motion made by Mr. Lind that was to start the
7 regulatory process with the modification of taking out the
8 9 minutes.

9 Okay. Any further comment?

10 Mr. Jelincic.

11 COMMITTEE MEMBER JELINCIC: On the amendment,
12 striking 9 minutes, I assume that we're putting a period
13 after single agenda item and the rest of it is being
14 struck?

15 GENERAL COUNSEL JACOBS: What paragraph are you
16 on?

17 CHAIRPERSON SLATON: (2)(A).

18 COMMITTEE MEMBER JELINCIC: (b)(2)(A).

19 GENERAL COUNSEL JACOBS: (b)(2)(A). Yes.

20 COMMITTEE MEMBER JELINCIC: Okay.

21 CHAIRPERSON SLATON: All right.

22 Committee members vote. All those in favor of
23 the motion say aye?

24 (Ayes.)

25 CHAIRPERSON SLATON: Oppose?

1 (No.)

2 CHAIRPERSON SLATON: Note Mr. Jelincic as a no
3 vote. Motion passes.

4 GENERAL COUNSEL JACOBS: Very good.

5 CHAIRPERSON SLATON: All right. Thank you very
6 much, Mr. Jacobs.

7 Now, we'll move to Travel -- oh, Ms. Hagen.

8 ACTING BOARD MEMBER HAGEN: I just wanted to make
9 a comment maybe for folks that are watching or in the
10 audience, that even though we're talking about speaking
11 time at meetings today, it still doesn't -- folks can have
12 a variety of ways to communicate with CalPERS, including
13 submitting their comments, which may include very complex
14 issues in writing. So I just wanted to make that point,
15 that we're not trying, as a Board, to cutoff communication
16 with our members.

17 CHAIRPERSON SLATON: Yeah.

18 MR. FLAHERMAN: I've not been told --

19 CHAIRPERSON SLATON: Please, we'll have order in
20 the room.

21 We'll have order in the room.

22 MR. FLAHERMAN: I specifically said that that
23 concept --

24 CHAIRPERSON SLATON: We'll have order in the
25 room. Thank you.

1 I think that's a good point that you made, Ms.
2 Hagen. I think our -- what we're trying to do here is
3 have orderly meetings to conduct the business of CalPERS,
4 the business of the State, and our members, and balancing
5 that with having good input from members of the public as
6 well.

7 All right. We'll move to number 6 on the agenda,
8 which is travel expense transparency.

9 Ms. Eason.

10 CHIEF FINANCIAL OFFICER EASON: Thank you.
11 Cheryl Eason, CalPERS staff.

12 We have put this forward as an action consent
13 item. There's really two parts to it that I want to talk
14 to. The first part is the -- we've provided a summarized
15 travel expense report. We've put in a sample of what we
16 thought based on the discussion from the Committee the
17 last time we met. And the report would be done on a
18 quarterly basis. It would include all expenses associated
19 with Board member travel. And it would also outline
20 location, date, and purpose of travel. So that's been
21 included as a sample in your package. And we -- that is
22 what we're recommending from a new travel expense report.

23 The rescinding of the existing Form 700 and
24 travel transparency policy was because as we were going
25 through this, we realized that there was a policy that

1 talked to the posting of the travel expenses on the
2 website. And that requirement is already in the Board
3 governance policy. So that was duplicative.

4 So we felt that if we could -- just as to align
5 our policies and to do some house cleaning, what we were
6 recommending is that on the Board expense -- board travel
7 expense reporting, you already have a requirement in your
8 board governance policy that requires that the -- your
9 travel be posted. And we would add to that the Form 700
10 reporting to the Board Governance.

11 So, in essence, taking that policy and just
12 putting it into the existing Board Governance Policy. So
13 really nothing would change, other than the -- it comes
14 back to having a quarterly report that would be posted
15 with all Board expenses.

16 On the staff side, again the existing Form 700
17 and travel transparency policy also indicates that that
18 would be for not only Board members but for executive
19 staff and Government Code 87200 filers. And again, we're
20 just suggesting that we would continue to do that. But
21 rather than have it in the current policy, we would put
22 that into a staff level policy.

23 So this is really just aligning what we're
24 currently doing with all of our policies is putting the
25 Board aspect of those -- the policy in the Board

1 Governance Policy, and putting any requirements for staff,
2 and we don't plan to change the staff requirement, but we
3 are asking that that would just be put in a staff level
4 policy.

5 CHAIRPERSON SLATON: Comments.

6 Mr. Jones.

7 COMMITTEE MEMBER JONES: Yeah. Thank you, Mr.
8 Chair. Yeah, I support this. A question or a comment.
9 On the form itself, all of the categories are actuals
10 except meals, because that would be per diem. So should
11 we just say meals per diem, so that it's accurately
12 reported? And with that modification --

13 CHIEF FINANCIAL OFFICER EASON: (Nods head.)

14 COMMITTEE MEMBER JONES: -- I would move
15 adoption.

16 COMMITTEE MEMBER BILBREY: Second.

17 CHAIRPERSON SLATON: Okay. Well, we have a
18 motion from Jones second from Bilbrey now.

19 Further discussion?

20 VICE CHAIRPERSON COSTIGAN: So I just want to
21 make sure, this is -- sorry. This is regardless of how
22 it's paid for, because the practice in the past has been
23 if you use the American Express card, it didn't reflect.

24 CHIEF FINANCIAL OFFICER EASON: That is correct.
25 This would be the collection of all cost regardless.

1 VICE CHAIRPERSON COSTIGAN: So I just want to
2 clarify. So for each Board, whether reimbursed or not.
3 Okay. Thank you.

4 CHAIRPERSON SLATON: I had thought we had talked
5 in preparation for this that we were going to divide it
6 into categories. That we were going to have a category
7 of, if you are representing CalPERS -- in other words, we
8 were going to break it -- because different people have
9 different obligations.

10 So it was kind of Board week being a different
11 category than other types of travel. And perhaps travel
12 where there's representation where your formally
13 representing CalPERS might be in a different category.
14 It's not a matter of the data that's disclosed, it's a
15 matter of putting them in categories.

16 CHIEF FINANCIAL OFFICER EASON: That's correct.
17 And by having purpose of travel, where we can indicate
18 that, we can sort that report --

19 CHAIRPERSON SLATON: You can sort it.

20 CHIEF FINANCIAL OFFICER EASON: -- accordingly.

21 CHAIRPERSON SLATON: Okay. So is the intention
22 to have it broken into groups?

23 CHIEF FINANCIAL OFFICER EASON: Yeah. So that's
24 why we kept that in there. And so what that would allow
25 us to do would be able to break it into groups. And we

1 thought we would work with the Board Services Unit to --

2 CHAIRPERSON SLATON: To break it out.

3 CHIEF FINANCIAL OFFICER EASON: -- to work on
4 that specifically.

5 CHAIRPERSON SLATON: Okay. I think the major
6 difference that I see is that this is kind of getting all
7 the travel in one spot, as opposed to it being partial
8 disclosure, but some items not being disclosed. Kind of
9 bringing it all together in the interests of transparency.

10 Mr. Feckner.

11 COMMITTEE MEMBER FECKNER: Yeah. Thank you.

12 Cheryl, when you say rescind the form 700 forms, et
13 cetera, does that mean we're not going to post the Form
14 700 results at the end of the year, that's separate?

15 CHIEF FINANCIAL OFFICER EASON: No, we would --
16 yeah, we would still continue to do that, but we just want
17 to put that requirement in the Board Governance Policy,
18 and we'll do a staff level policy. But the actual
19 actions, what we're currently doing would not change.

20 COMMITTEE MEMBER FECKNER: Great. Thank you.

21 CHAIRPERSON SLATON: Mr. Jelincic.

22 COMMITTEE MEMBER JELINCIC: Yeah. The -- looking
23 at the sample, I mean, purpose of travel, Institutional
24 Investor Conference. I realize that's just an example.
25 But I assume that that will be broken down to like CII as

1 a representative or --

2 CHIEF FINANCIAL OFFICER EASON: We currently --
3 there will be the same level of detail that we currently
4 provide, and that is the name of the conference, for
5 example. We do currently put that in the reporting.

6 COMMITTEE MEMBER JELINCIC: Okay. And the -- on
7 my briefing, I raised the issue of the 8700 folks -- or
8 87200 folks, because we're currently disclosing that --
9 you say we intend to continue to do that. I would be
10 hesitant to rescind the current policy until we put the
11 other policies in place. And part of it is just to make
12 sure that it doesn't get dropped. And the other part of
13 it is optics. You know, we're adopt -- we're rescinding
14 the fact that we're going to post the annual Form 700s.
15 And as you said, that's not the intention.

16 So I would suggest leaving the current policy in
17 place at least until we're able to get the other policies
18 amended.

19 CHAIRPERSON SLATON: Mr. Jones.

20 COMMITTEE MEMBER JONES: Oh, no.

21 CHAIRPERSON SLATON: Okay.

22 VICE CHAIRPERSON COSTIGAN: I actually would
23 support Mr. Jelincic. I have concerns about reducing the
24 transparency aspect of it. And I -- what problem or what
25 issue are we trying to correct by not making the

1 information available? Is it a staff level?

2 CHIEF FINANCIAL OFFICER EASON: So we are making
3 all of the information available now. We will continue to
4 do that, and we will enhance by having all complete costs
5 on the travel. All we're doing is doing --

6 VICE CHAIRPERSON COSTIGAN: On the Form 700s as
7 well.

8 CHIEF FINANCIAL OFFICER EASON: Well, that will
9 continue, but we're just -- I guess what the
10 recommendation should have -- maybe should have been clear
11 that we would rescind this policy and replace it with
12 those amendments in the Board policy and a staff level
13 policy.

14 VICE CHAIRPERSON COSTIGAN: So all the
15 information that is currently being made available to the
16 public will continue to be made available to the public?

17 CHIEF FINANCIAL OFFICER EASON: Yes.

18 VICE CHAIRPERSON COSTIGAN: There's not going to
19 be any documents or any access to information that will no
20 longer be available?

21 CHIEF FINANCIAL OFFICER EASON: That's correct.

22 VICE CHAIRPERSON COSTIGAN: All right.

23 CHAIRPERSON SLATON: Mr. Feckner.

24 COMMITTEE MEMBER FECKNER: Yeah. In all fairness
25 though, Cheryl, isn't there going to be more information

1 this way than there was before --

2 CHIEF FINANCIAL OFFICER EASON: There will be --

3 COMMITTEE MEMBER FECKNER: -- because of the
4 AMEX, et cetera.

5 CHIEF FINANCIAL OFFICER EASON: Absolutely. On
6 the cost side, there will be full transparency.

7 COMMITTEE MEMBER FECKNER: Thank you.

8 CHAIRPERSON SLATON: Okay. I think this is --
9 you're asking for an action on this one.

10 CHIEF FINANCIAL OFFICER EASON: Yes, and I think
11 we have a motion.

12 COMMITTEE MEMBER JONES: I moved with
13 modification.

14 CHAIRPERSON SLATON: Who made the motion?
15 Did you move it?

16 COMMITTEE MEMBER JONES: I moved it.
17 We have a motion on the floor. It's a long day,
18 right.

19 Okay. All those in favor say aye?

20 (Ayes.)

21 CHAIRPERSON SLATON: Opposed?
22 Motion carries.

23 I'd like to suggest, given that it's almost 3:30,
24 we still have a Risk and Audit Committee meeting, both an
25 open and a closed. An so without -- if there's no

1 objection, we would defer Item number 7.

2 COMMITTEE MEMBER FECKNER: No wait, I object.

3 (Laughter.)

4 CHAIRPERSON SLATON: Would you like 4 or 5
5 minutes?

6 (Laughter.)

7 COMMITTEE MEMBER JONES: Three.

8 COMMITTEE MEMBER FECKNER: Zero.

9 CHAIRPERSON SLATON: Okay. Zero. I think that's
10 the consensus.

11 Okay. So we will defer that to a future meeting.

12 We'll move to number 8, Summary of Committee

13 Direction. Mr. Jacobs.

14 Got anything?

15 GENERAL COUNSEL JACOBS: No, I don't think so.

16 CHAIRPERSON SLATON: Okay.

17 GENERAL COUNSEL JACOBS: Did I miss something?

18 CHAIRPERSON SLATON: All right. And I have no
19 cards for public comment, so we will adjourn this meeting,
20 and Risk and Audit will start at?

21 COMMITTEE MEMBER LIND: 20 till.

22 COMMITTEE MEMBER FECKNER: Quarter till.

23 COMMITTEE MEMBER LIND: Quarter till.

24 CHAIRPERSON SLATON: At a quarter till -- quarter
25 to 4:00 in the Board room.

1 Thank you.

2 (Thereupon California Public Employees'
3 Retirement System, Board Governance Committee
4 meeting adjourned at 3:26 p.m.)
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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, do hereby certify:

That I am a disinterested person herein; that the foregoing California Public Employees' Retirement System, Board of Administration, Board Governance Committee meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, 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 27th day of September, 2016.

JAMES F. PETERS, CSR
Certified Shorthand Reporter
License No. 10063