



City of Austin Employees' Retirement System

MINUTES
CITY OF AUSTIN EMPLOYEES' RETIREMENT SYSTEM
SPECIAL CALLED BOARD MEETING
Friday, June 8, 2007 – 1:00 p.m.
418 E. Highland Mall Blvd., Austin, Texas 78752

Board Members Present

Janet Bartles
Eyna Canales-Zarate
Betty Dunkerley
Ed Golden – *dep. 2:54 p.m.*
Elizabeth S. Gonzales
Mark Monteith
Anthony B. Ross, Sr.

Absent

Frances E. Benoit
Cathy Rodgers
Leslie Browder
Reagan David

Guests and Staff Present

Stephen C. Edmonds, Executive Director
Donna Boykin, Finance Manager
Rhonda Helm, Operations Manager
Jesse Ortega, Administrative Supervisor
Laura L. Fugate, Member Services Specialist
Errin Garcia, Executive Assistant
Melissa Adams, IT Coordinator
Barney Knight, General Counsel
Paige Saenz, Assistant General Counsel
Peter Collins, Active Member
Tonia Lucio, Attorney for Mr. Collins
George Greene, Active Member

The meeting was called to order at 1:13 p.m. by Board Chair, M. Monteith.

M. Monteith advised that Item 2 would be discussed before Item 1.

2. Disability Retirement of Leroy Green

The Board originally examined the disability retirement application of Leroy Green at their April 24, 2007 Board meeting, where it was determined that there has not been sufficient time to make a final judgment on the eventual outcome of Mr. Green's medical condition. The Board voted to postpone their decision on his application for at least 90 days.

The Board had also requested that Staff provide information concerning Mr. Green's status at the City of Austin (e.g. amount of leave, Short Term Disability/Long Term Disability coverage). Staff provided the information to the Board acknowledging that the information is not a factor to be considered for granting or denying a Member disability retirement with COA ERS.

The agenda item was posted for the Board to set the meeting date for review/action on Mr. Green's application. The next regular Board meeting after the 90-day period is scheduled for September 25, 2007. The Board could decide to consider Mr. Green's application at the September Board meeting or hold a Special Called Board meeting before September.

E. Canales-Zarate made a motion to consider Mr. Green's application at the September 25, 2007 Board meeting. The motion was seconded by E.S. Gonzales. Motion passed unanimously.

1. Continuation of Appeal Hearing – Active Member Peter Collins

Active Member Peter Collins' appeal was originally heard at the April 24, 2007 Board Meeting. Due to time and Board quorum issues, the appeal was tabled until today's meeting.

Summary of case as stated in statement of the case (prepared by COAERS):

An error was contained in Mr. Collins' retirement record. As a result of the error, his retirement contribution start date (membership date) was misstated on his annual member statements and he received incorrect retirement benefit estimates. Mr. Collins states that he made important financial decisions based on the incorrect information. Executive Director S. Edmonds responded to Mr. Collins correcting his retirement record and stating that the incorrect estimates must be disregarded. Mr. Collins is appealing that decision to the Board of Trustees.

The issues for determination as stated in the statement of the case (prepared by COAERS) include: Did the Executive Director properly follow Texas law in correcting the retirement records of Mr. Collins? What is the correct membership date for Mr. Collins? Must the incorrect estimates be disregarded? Should the military purchase completed by Mr. Collins be corrected?

A binder was distributed to the Board, Mr. Collins, and Mr. Collins' attorney, Tonia Lucio, prior to the meeting, including: Original Statement of the Case (prepared by COAERS); Letter and Exhibits Submitted by Peter Collins; Opening Statement by Barney Knight, COAERS General Counsel (orally presented at initial hearing on April 24, 2007); Pertinent facts, as presented by Barney Knight; Exhibits presented during initial hearing by Barney Knight, COAERS General Counsel; Subsequent Correspondence; and a Digital Record of the April 24, 2007 Appeal Hearing (CD in mp3 format). A tab was reserved in the binder for written summary of arguments from Mr. Collins' attorney; Mr. Collins' attorney distributed at the hearing an additional binder "Pete Collins' Summary of Evidence".

M. Monteith, Board Chair, reviewed the process and stated that the Board would postpone asking questions pending a summary of the facts by both Mr. Collins' attorney and the System's General Counsel, following up with Trustee questions and closing arguments.

After presenting her summary of the case, Ms. Lucio stated that Mr. Collins is requesting to purchase the 46 months of creditable service at the original purchase cost as of October 1, 1997, that he be allowed to purchase it over a period of time until he retires, and that the System reimburse his attorney fees.

The Board questioned Mr. Collins and Staff. B. Dunkerley asked if she could present a timeline of events starting in 1993 involving Mr. Collins, the System, and the City which she stated helped her understand what may have contributed to the error being made on Mr. Collins' date of membership. After this presentation, she provided recommendations for the Staff to consider for process improvements. She also suggested that all three parties, Mr. Collins, the City, and the System, meet with a mediator to come to a resolution.

The Board discussed that there are three options: Deny the appeal; Grant the appeal (subject to Board approval of the final remedy); or Postpone the appeal.

E. Canales-Zarate made a motion to postpone the decision to a special meeting in July when more members of the Board were there to make a decision. A.B. Ross, Sr. seconded the motion. Discussion ensued about possible remedies. The motion was withdrawn.

Mr. Collins offered to purchase the 46 months at the 1998 purchase cost. A calculation was prepared of the 1998 purchase cost plus interest that would have accrued had the funds been on deposit with the System (similar to the calculation of prior service purchases). E.S. Gonzales made a motion to grant the appeal and accept Mr. Collins' offer to purchase the 46 months at the 1998 cost plus interest, leaving Mr. Collins to negotiate the rest of the cost with the City, with interest continuing to accrue until the purchase is complete. J. Bartles seconded the motion. Further discussion ensued about calculation of the cost and recovery from the City. The motion was rescinded.

The Board discussed accepting Mr. Collins' offer if the City paid the extra cost to make the System whole. E. Canales-Zarate made a motion to postpone a decision until the Executive Director could schedule a special board meeting to continue the hearing when most of the Board members who have not recused themselves can participate. M. Monteith seconded the motion. Motion carried unanimously.

B. Dunkerley requested that Staff meet with the City Controller and Mr. Collins to address the issue. No Board vote was taken.

E. Canales-Zarate made a motion to request staff to put in place the additional internal controls earlier recommended by B. Dunkerley. General Counsel reminded that this would need to be posted at another Board meeting since it was not on the agenda.

E. Canales-Zarate made a motion to have staff develop a recommended process for these kinds of situations and bring it back to the Board. A.B. Ross, Sr. seconded the motion. The motion passed unanimously. S. Edmonds reported that many internal controls have been put in place and he will bring them back to the Board.

Meeting adjourned at 4:57 p.m.

Mark Monteith
Mark Monteith, Board Chair

6-26-07
Date

Stephen C. Edmonds
Stephen C. Edmonds, Executive Director

6/26/07
Date