

## RETIREE SUPPORT GROUP OF CONTRA COSTA COUNTY

### MINUTES

April 5, 2018

Pacheco Community Center, Martinez, CA

1. Opening

The meeting was called to order at 10:05 a.m. by Chair Pat Patterson. A quorum was present and we recited the Pledge of Allegiance. One new member attended the meeting.

2. Minutes

A motion was made, seconded, and approved to accept the minutes of our February 1, 2018 meeting.

3. Treasurer's Report

Terry Mann gave the Treasurer's report. All bills received and checks were signed for payment. Membership dues are now deposited electronically. He reported the balances in our General and Legal Funds. We no longer vote to approve the Treasurer's Report.

4. Status Reports

Steve Ojeda gave an update on the CCCRSRSG website. There have been 130 visitors to our new website. Steve will have an assistant to help and possibly take over. She is not a Contra Costa County employee or retiree, but is a County employee's survivor. Pat added that there is a new, easy way to call RSG of CCC which appears on the website. The new phone number is 925-269-9590.

Louie Kroll indicated that the Annual Barbecue will be held at our next meeting on June 7, 2018.

Pat Patterson mentioned veterans' benefits that are available such as glasses, hearing aids, 10% discounts from Lowe's and Home Depot. He reiterated that veterans can get information from the Contra Costa County Veterans Service Office.

5. CalPers Long-Term Care Lawsuit

Doug Pipes filled in for Mike Sloan regarding this lawsuit. He passed along information sent to him by email from Mike. Currently, three women ages 70+ are trying to represent a class action against Towers and Watson. April 19, 2018, is set to decertify the class. If the judge approves, it will move to discovery phase. It is unlikely to result in a trial but could take about two years.

6. Discussion and Vote to Approve Bylaws Amendments to Article XII and Article VIII Section 5

Doug Pipes discussed a proposal to amend these Bylaws as proposed by the Directors. It had been approved unanimously by the Board of Directors to present this information at today's meeting instead of mailing a ballot to 1400 CCCRSRSG members.

## Article XII

It is proposed to give our Treasurer authority to deposit CCCRSF funds and to purchase certificates of deposit CD's) at financial institutions other than First Norcal Credit Union. It is in our best interests to invest with financial institutions with competitive rates. A question was raised about limiting our business to credits unions, as they usually have higher interest rates versus banks. Credit unions are insured by the NCUA, while banks are insured by the FDIC. Current insured limits are \$250,000 per account. Length of deposits will be decided by the Board. Doug suggested that we allow the Treasurer and Board to make decisions about investing in CD's. Terry can make recommendations to the Board for approval. He has done some research on CD rates at local credit unions (including Metro, Travis, First Norcal, etc.) for one, three, six, and twelve-month accounts of \$100,000 or more. First Norcal Credit Union has the best rates. A motion was made, seconded, and approved to accept this amendment to Article XII. There was one nay vote.

## Article VIII Section 5

The proposal to revise this Article and Section regards the suspension or removal of a Director from the Board. Currently, members can vote to remove a Board member between elections following a 10% membership petition to get an election, which requires a mailed-out vote. It is important to have a full Board of seven Directors that meets every month. It is proposed that a super majority vote (five of seven) would be required to suspend or remove a Director who is physically or mentally unable to serve on the Board. The affected Director will receive written notice 15 calendar days prior to a Board meeting and will have the right to bring evidence in his/her favor and/or bring a lawyer. The affected Director also has the right to vote as one of the seven Directors, and to again run for election to the Board at a later date. A motion to accept the proposed amendment, with changes proposed from the floor, to Article VIII Section 5 was seconded and approved. This item has been referred back to the Board of Directors for their approval of changes made to the proposed amendment by RSG members before voting on the amendment.

## 7. Guest Speaker – Presentation on Public Employee Pensions and PEPRA Litigation

RSG Vice-Chair and House Counsel Doug Pipes presented an update on public employee pensions and litigation surrounding these pensions.

The California Government Code contains provisions for public employee pensions (State, County, and City government employee pensions). Seventeen California counties contract with CalPers for their employee pensions, while 20 counties are covered by CERL (County Employees Retirement Law of 1937). The State Legislature enacts the laws governing these pensions; and the courts interpret these laws and resolve disputes over them. Retirement systems apply those laws to their retirement system members.

Since 1944 Contra Costa County has been governed by CERL as its pension retirement system. The system is managed by the Contra Costa County Employees Retirement Association (CCCERA). CCCERA employs three factors to determine a retiree's pension:

A. Final compensation (highest 12 months compensation, or the average of the highest three years of compensation, depending on the employee's retirement Tier).

B. Service credit (number of years)

C. Retirement age factor determined by State law

Prior to December of 1997 pensions were calculated using only an employee's base pay. After the decision of the California Supreme Court in Ventura County Deputy Sheriff's Association [Ventura], the CCCERA Board of Retirement adopted a Final Compensation Policy on December 5, 1977, that expanded the items of an employee's compensation that would be counted in determining the employee's Final Compensation.

In September of 2012 the State Legislature enacted the Public Employees Pension Reform Act [PEPRA] that went into effect on January 1, 2013, limiting the items of compensation that can be counted in determining an employee's Final Compensation ["compensation earnable"] for retirement pension purposes.

On October 30, 2012, the CCCERA Board voted 7-2 to apply PEPRA's definition of "compensation earnable" to all system members who had not retired prior to January 1, 2013. Less than one month later the Contra Costa County Deputy Sheriff's Association and the Consolidated Firefighters Association filed a lawsuit in the Contra Costa Superior Court challenging the lawfulness of CCCERA's October 30, 2012, vote to apply PEPRA's definition of compensation earnable to existing employees. The DSA/Firefighters' civil action was consolidated with similar lawsuits filed in Alameda and Merced Counties, and resulted in a final judgment by Superior Court Judge David Flinn in the Contra Costa County Superior Court on May 12, 2014.

Numerous appeals of Judge Flinn's decision were filed in the First District Court of Appeal. After almost two and one half years, those appeals resulted in a published opinion on January 9, 2018, by the Court of Appeal entitled Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association. The Court of Appeal held in Alameda DSA that that Contra Costa County and CCCERA are prevented by the doctrine of equitable estoppel from reneging on promises made to employees that terminal pay and other forms of compensation in addition to base pay would be included in calculating their final compensation for retirement purposes.

The State of California petitioned the California Supreme Court to review the Court of Appeal's decision in Alameda DSA. On March 29, 2018, the Supreme Court granted review in Alameda DSA, and deferred briefing in a similar case out of Marin County entitled MAPE (Marin Association of Public Employees) v. Marin County Employees Retirement Association. A decision by the California Supreme Court on the question whether the Legislature has the lawful power to reduce pensions for existing public employees is likely to be rendered in 2019

The RSG Legal Fund will be maintained by RSG to fund any actions required to protect our members' retirement benefits.

#### 8. Group Information Sharing

Pat Patterson will follow up with Frank Scudero (who was absent today) about coffee for our meetings.

The meeting was adjourned at 12:03 p.m.

Respectfully submitted,

Linda Wallgren, Assistant Secretary