

SDREA NEWFLASH!
Highlights from the Advocacy Committee
July 12, 2005

SDCERS BOARD ACTIONS

The SDCERS Board held its regular meeting on June 17, 2005, and special meetings on June 22 and July 5, focusing on two issues: waiver of attorney-client privilege, and interest rate crediting.

WAIVER: The June 17 Board meeting featured a presentation by Michael Young, attorney with Willkie, Farr, Gallagher (attorneys hired by the Kroll consultants). Mr. Young's mission was to persuade board members to waive attorney-client privilege, but his comments angered many Board members and had a negative effect. The Board did not decide on the waiver at either meeting. (A special July 11 closed session meeting will address other legal issues.)

INTEREST RATE CREDITING: The SDCERS Board is required to set an interest rate annually for employer/employee contributions and quarterly for contributions to DROP accounts. The interest rate is currently 8% and has been so for many years; however at the June 17 meeting the new Board raised many questions about the rationale for the 8% rate. Because of a June 30 deadline, the issue was continued to a special June 22 meeting. After lengthy discussion, the Board voted to approve the 8% rate for both contributions, but directed staff to bring back options for determining appropriate interest rates within 90 days.

UPCOMING ISSUES: Additional issues to be discussed by the SDCERS Board in the near future include: **New IRS rules for DROP retirees**; and an **RFP for actuarial consultant services** (the contract with actuary Rick Roeder expired June 30, and the Board voted to go out with an RFP, although praising Roeder's 13-year service).

CITY APPROVES SDCERS BUDGET

On June 27, at 9:20 p.m. on the last day of budget hearings, the City Council finally approved the SDCERS administrative budget. The Council had held up approval of the budget, and also threatened to place the pension system into receivership, because the SDCERS Board had not waived attorney-client privilege. Surprisingly, there was no mention of waiver or receivership at the meeting. (Soon after both words returned to the Council lexicon).

MORE FUNDS FOR KPMG AUDIT AND INVESTIGATIONS

On June 28, the City Council approved more than \$4.5 million for the growing army of auditors, consultants, and attorneys presumably helping the City out on the audits and investigations which continue on. Recipients of Council largesse included: KPMG Auditors, \$300,000 (total contract now \$ 2.5 million); Vincent & Elkins, \$1.8 million (total contract now \$4.4 million); Kroll Inc, \$ 600,000 (total contract now \$2.35 million); and Willkie, Farr Gallagher, attorneys for Kroll, \$950,000 (total contract now \$ 1.45 million). Also included in the approvals were smaller contract increases for other legal firms, and \$993,000 for attorney fees for the Mayor and City Council.

What is troubling is that City officials do not seem to have a clue as to what these consultants are actually doing. For example it was revealed that Vincent & Elkins recently charged over \$400,000 per month for "document production" (putting documents in binders), without detailed invoices. The contrast between the scrutiny the Council recently gave to the FY 2006 budgets for vital City services, and the lax oversight of these consultants is startling! The total spent for these firms is now more than \$13 million, and Neil Morgan wrote in a recent article that "the word on the street in New York and Washington legal circles is that San Diego is easy money." One hopeful sign is that the City Manager is arranging for all of the consultants to attend a Council meeting in the near future to answer questions and discuss work plans, but it is a bit late in the game.

FOUR NEW LAWSUITS!

People of the State of California vs. Grissom et al - This civil lawsuit was filed in Superior Court on July 6 by City Attorney Michael Aguirre under a provision of the California Political Reform Act of 1974, and asks the court to fine eight City officials who Aguirre claims took part in creating "illegal" pension benefits. The lawsuit also requests the court to roll back the benefits created in MPI (1996) and MPII (2002), because they were "illegally created." The officials identified include Larry Grissom and Lori Chapin, SDCERS Administrator and Attorney, Bruce Herring, Deputy City Manager, and five of the six persons indicted by District Attorney Dumanis for conflict of interest.

Aguirre v. SDCERS - was filed on July 8 as a cross-complaint to the lawsuit by SDCERS v. Aguirre (filed in January 2005). In this lawsuit, Aguirre asks the court to appoint him as SDCERS legal advisor, and also to consider appointing a receiver to administer the system. He will seek City Council approval before formally asking the court to appoint a receiver. According to one article, Aguirre said this lawsuit was filed on July 8, 2005 because the statute of limitations for the 2002 benefit package could expire after July 11, 2005. (Question: Was there a statute of limitations for MP1, 1996?)

Gleason, Woods, McGuigan v. Roeder - is a lawsuit filed by retirees in Superior Court on June 28, against Rick Roeder, the SDCERS actuary for the past 13 years. The lawsuit claims that Roeder concealed from the SDCERS Board the potential damage to the pension fund which would be caused by the 2002 underfunding proposal. Michael Conger is the attorney.

McGuigan v. City of San Diego - also filed on June 28 by attorney Michael Conger, asks the court to force the City to pay into the pension fund an actuarially determined amount that would reconcile the fund's deficits from 1997 to 2004. This suit is similar to the Gleason lawsuit; however Conger commented that the Gleason lawsuit was designed to stop the underfunding from going forward, while this suit seeks to hold the City responsible for its own mistakes of underfunding the pension system and then covering it up on financial reports and bond disclosures.

Status of Other Lawsuits: A preliminary hearing will be held on July 22 for the six persons indicted by DA Bonnie Dumanis on conflict of interest charges. There is no change or new information on other lawsuits.

CANDIDATE FORUM A SUCCESS!

The June 29 Mayoral Candidate Forum sponsored by SDREA, was a definite success, with a large crowd in attendance, and all five invited candidates in good form. The forum was moderated by former TV anchor Cathy Clark and went very smoothly, thanks to the outstanding organizational efforts of Ruth Ann Hageman and the many volunteers who helped. They all efficiently took care of the dozens of details that don't get noticed, but are critical to a successful event such as this. And thanks to all the retirees and friends who attended. We wanted the candidates to know that we retirees are interested and involved and that there are a lot of us. Now they know!

ADVOCACY COMMITTEE

We stayed busy, helping with the Candidate Forum, speaking at the Retirement Board meeting and also at the City Council budget hearing, both on the need for the City Council to stop the threats to the Retirement Board, and instead to persuade the Board to waive attorney-client privilege by cooperating with and indemnifying the Board.

Visit our website at www.csdrea.com. Email comments to Virginia Silverman at VirginiaLA35@cox.net.

UPCOMING MEETINGS

July 15 and July 22, 2005 - RETIREMENT BOARD CLOSED SESSION MEETINGS

* **July 26, 2005 - MAYORAL ELECTION**

July 29, 2005 - REGULAR RETIREMENT BOARD MEETING

1:30 p.m. SDCERS Meeting Room, Wells Fargo Bldg, 4th Floor, 4th & B Streets (Parking under building)

*** July City Council Mtg - either July 18, 19, 25 or 26, 2005 - RECEIVERSHIP FOR PENSION SYSTEM**

See Retiree website (csdrea.com) or City website (sandiego.gov) for specific date.

Note: Retirement Board meetings are videotaped and usually replayed the same Friday, beginning at 7 p.m., on Cox Cable Ch. 24 or Times Warner, Ch .24

City Council meetings are broadcast live and replayed the same evening, and on Saturday morning at 7 a.m.((Monday Council) and Sunday morning at 7 a.m. (Tuesday Council). Available only to San Diego City residents.

CITY HALL CONTACTS (Mailing Address for all City officials is: 202 'C' Street, San Diego, CA 92101.

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