



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Dennis Hawkins, CMC

SUBJECT: INTERVIEW AND APPOINT A PUBLIC MEMBER OF THE FEDERATED RETIREMENT BOARD

DATE: February 11, 2011

COUNCIL DISTRICT: City-wide
SNI AREA: N/A

RECOMMENDATION

1. Consider the appointment of Martin Dirks to the Board of Administration of the Federated City Employees' Retirement System as recommended by the Board.
2. At the Council's discretion, appoint Martin Dirks to the Board of Administration of the Federated City Employees' Retirement System for a term of office expiring February 28, 2015.
3. If the Council does not appoint Martin Dirks, staff recommends the Council request that the Federated Retirement Board provide an additional recommendation(s) for Council consideration from the remaining applicants, or provide alternative direction to staff concerning a procedure for filling the fourth public member seat on the Federated Retirement Board

BACKGROUND

On August 10, 2010, the City Council adopted Ordinance 28788, which revised San Jose Municipal Code Section 2.08.1010 to modify the composition of the Federated City Employees' Retirement System Board to include the appointment of four (4) public members.

The San Jose Municipal Code states that public members of the City's Retirement Boards must either "reside or have a primary place of employment" within 50 miles of San Jose City Hall. However, on October 5, 2010 the Council modified the application for appointment to the Retirement Boards to specify that applicants must reside within 50 miles of San Jose City Hall and directed that staff return with a recommendation for modification to the Municipal Code to reflect that change.

Under the provisions of the above Ordinance, the terms of office for public members was established at four years. However, under SJMC Section 2.08.150 (D), the City Council may consider shorter terms of office, staggering terms to provide continuity in the Board's membership, in making these appointments. The length of terms of office is at the Council's discretion. Specifically, the Code offers the following language:

SJMC 2.08.150 (D). *Except as otherwise specified in this chapter, a member may be appointed to serve a term of less than three years or a term of less than the number of years established by this chapter for the particular board of commission if the council determines that it is in the best interest of the board or commission that a member serve a shorter term in order to provide for appropriate staggered terms to preserve a continuity of membership on the board or commission.*

On December 16, 2010 the City Council interviewed 14 applicants for public member positions on both the Police and Fire and Federated Retirement Boards. The Council appointed four public members to the Police and Fire Board and three public members to the Federated Retirement Board:

- Stuart Odell, two-year term ending November 30, 2012
- Michael Armstrong, four-year term ending November 30, 2014
- Lara Druyan, four-year term ending November 30, 2014

The Ordinance inadvertently did not address the process for appointment of the final public member to the Federated Board. However, staff understood from the Council's initial direction on the original Federated Ordinance and the action taken on the Police and Fire Ordinance, that it was the Council's intent to use the same process for the appointment of the final public member to both Retirement Boards. Accordingly, Retirement Services staff scheduled a special Federated Board meeting so that the six Federated Trustees could interview applicants and make a recommendation to the City Council for the appointment of the seventh and final Trustee.

The six members of the Federated Board reviewed the remaining applicants' resumes from the pool interviewed by the City Council. The Board invited four candidates to be interviewed on February 4, 2011. At the conclusion of the interviews, the Board unanimously voted to recommend Martin Dirks to the City Council for appointment as the final public member of the Board. A successful applicant must receive six or more Council votes to be appointed to the Retirement Boards. Staff recommends that the term of office of the seventh member expire on February 28, 2015.

ANALYSIS

The Federated City Employees Board of Administration respectfully recommends that the City Council appoint Mr. Dirks as seventh Trustee. With the appointment of the seventh and final member of the Board, the structural changes to the Federated Retirement Board will be accomplished and fully implemented.

However, it should be noted that a question has been raised concerning whether Mr. Dirks meets the revised residency requirement. In his November 1 cover letter to his application, Mr. Dirks advised he works in San Francisco, his permanent mailing address is in San Francisco, but that he currently resides in Petaluma while looking for another home in San Francisco. The application form included an admonition that "Living within 50 miles of San Jose City Hall is a requirement" and asked the question, "Do you live within 50 miles of San Jose City Hall?" Mr. Dirks' responded, "Yes". Lastly, Mr. Dirks' application included a San Francisco residence address, which the Office of the City Clerk confirmed was within 50 miles of San Jose City Hall. The City Clerk's Office relied on these representations and concluded that Mr. Dirks met the residency requirement and advanced his application. On Friday, February 4, 2011, Mr. Dirks committed to the Retirement Services Director that he would complete his residential transition within 90 days and would live within 50 miles of San Jose City Hall.

Conflicts of Interest Review:

Prior to the City Council interviews of applicants for appointment to the Retirement Boards on December 16, 2010, the Office of the City Attorney and the Department of Planning, Building and Code Enforcement completed their routine conflicts of interest and code violations review. Code Enforcement's research revealed no past or current cases involving Mr. Dirks. The City Attorney's analysis concluded, "*Mr. Dirks did not identify any organization, association, or entity in which he was active or which he is involved or associated that might be affected by decisions of the Board. He further indicated that he would have no financial interest to disclose other than the above employment interests. There is no existing conflict of interest arising out of Mr. Dirk's employment because the Board doesn't currently contract with McCullough & Associates, LLC. Although there is potential for conflict because McCullough & Associates, LLC is a type of entity that the Plan might consider contracting with, it is our understanding, based on conversations with Retirement Services staff, that McCullough & Associates, LLC does not offer such unique services that the potential conflict would have a substantial impact on Board business*"

PUBLIC OUTREACH

This memo has been posted on the City Clerk's website as a part of the February 15, 2011 City Council Meeting Agenda. In addition, this information has been posted on the websites for the Federated Retirement Board and copies of the memorandum have been distributed to appropriate employee and retiree organizations.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

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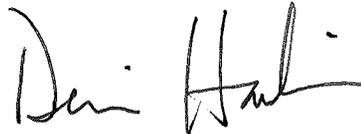
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, , or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum has been coordinated with the Office of the City Attorney and the Department of Retirement Services.

CEQA

Not a project.



DENNIS D. HAWKINS, CMC
City Clerk

For questions, please contact Dennis Hawkins, City Clerk, at (408) 535-1275.

**CITY OF SAN JOSÉ - RETIREMENT BOARDS
APPLICATION FOR APPOINTMENT AS A PUBLIC MEMBER**



Public members of the Board of Administration of the San Jose Police and Fire Department Retirement Plan or the Federated City Employees' Retirement System must live or work within 50 miles of San Jose City Hall and meet specified eligibility requirements.

PLEASE USE BLACK OR BLUE INK TO TYPE OR PRINT YOUR APPLICATION. Submit application to the Office of the City Clerk, 200 E. SANTA CLARA STREET, Room W-242, San José, California, 95113, Phone: (408) 535-1252; Fax: 408-292-6207; email: cityclerk@sanjoseca.gov. If more space is needed, please attach additional pages. Applications are valid for one year from the date of receipt and are public record.

Please check the appropriate box:

Police and Fire Department Plan Federated City Employees' System

Do you reside within 50 miles of San Jose City Hall? Yes No

Living within 50 Miles of San Jose City Hall is a requirement

Name (Last, first, middle) Dirks, Martin Byron

Home Address City Zip Code

Home Phone No. Cellular Phone No. Home Fax No.
N/A

Business Address Zip Code

Business Phone No. Business Fax No.

Business Email Personal Email

Present Employer (Name/Describe Business)	Job Title/Description of Duties
McCullough & Associates LLC	Director of Research
Investment advisor, managing equity and fixed income portfolios for individuals, foundations and pension plans.	Identification, research and ongoing management of equity investments.

Current Employer of Spouse (Name/Address)	Spouse's Job Title/Description of Duties:
N/A	N/A

**CITY OF SAN JOSÉ - RETIREMENT BOARDS
APPLICATION FOR APPOINTMENT AS A PUBLIC MEMBER**

College, Professional, Vocational or Other Schools attended	Major Subject	Dates Attended	Degree & Date
Harvard Business School	Master in Business Admin	1985 - 1987	MBA 1987
Bemidji State University	Engineering Physics	1974 - 1979	BS 1979

Licenses Held:

California Registered Investment Advisor (previously)

Certifications Held:

N/A

Special Awards or Recognitions Received

Judge for the Venture Capital Investment Competition. Among highest student-rated professors at Golden Gate University.

Languages spoken

English

Individuals applying for appointment as public members of the Board are ineligible for appointment to the Board if they meet certain criteria. Please confirm if you meet any of the following criteria. If you answer yes to any question, you are not eligible for appointment as a Public Member of the Retirement Boards.

- Current or former City employee Yes No
- Current or former elected or appointed City official Yes No
- Retired members of, or persons participating in or receiving benefits from the Police and Fire Dept. Retirement Plan or Federated City Employees' Retirement System Yes No
- A representative of any union representing City employees Yes No
- Immediate Family Member (as defined in San Jose Municipal Code Sections 2.08.1020.F and 2.08.1220.F) of a City employee or persons participating in or receiving benefits from the Police and Fire Dept. Retirement Plan or Federated City Employees' Retirement System Yes No

**CITY OF SAN JOSÉ - RETIREMENT BOARDS
APPLICATION FOR APPOINTMENT AS A PUBLIC MEMBER**

A. GENERAL BACKGROUND

1. Please list your applicable experience or expertise relevant to public retirement plan administration. Please attach your resume or CV to allow for more detailed information.

Category (check all that apply)	Years of Experience	Describe your experience or expertise
<input type="checkbox"/> Senior executive position in pension administration		
<input type="checkbox"/> pension actuarial practice		
<input checked="" type="checkbox"/> institutional investment experience	21	Portfolio mgr - managed \$800 million portfolio
<input type="checkbox"/> auditing		
<input type="checkbox"/> accounting		
<input checked="" type="checkbox"/> legal	5	Expert witness in litigation of financial issues
<input type="checkbox"/> health and welfare and/or employee benefits management		
<input checked="" type="checkbox"/> investment management	21	Analyst/portfolio manager at large hedge funds
<input type="checkbox"/> banking		
<input type="checkbox"/> Insurance company asset/liability management		
<input checked="" type="checkbox"/> college or university professor (focus on fiduciary or trust law, quantitative background in financial theory or actuarial math)	5	Adjunct professor; teach Portfolio Management
<input checked="" type="checkbox"/> Other	21	Extensive experience in long/short hedge funds
<input checked="" type="checkbox"/> Other	20+	Experience in private equity/venture capital

2. Please summarize your qualifications to serve as a member of the Retirement Board? Briefly highlight your skills, training, education, qualifications, experience (licenses and/or certifications) and personal qualities that you will bring to the Board and share with the organization.

For more than 20 years I have been an Institutional equity manager at large hedge funds as well as the largest university endowment - Harvard University. I understand alpha creation and want to bring that expertise to bear. As a board member of the Venture Capital/Private Equity Roundtable, I have an in-depth understanding of VC/PE investments. I eagerly take on team leadership roles, when appropriate, and I am a dynamic force as either a team member or leader.

3. What is your interest and motivation for serving as a member of the Retirement Board?

I want to bring my experience to bear and serve the members of the Retirement System. I have no affiliations that could present a conflict of interest or bias my decision making. I enjoy working on important issues with a team of smart people; I believe the experience of serving on the Board will be personally rewarding. The Retirement Board's decisions have large impacts on member's retirement. I am motivated by the opportunity to positively impact many people's lives.

4. Please discuss your pension plan and/or investment management and oversight experience including the development of key financial policies.

My experience here is from the perspective of an Institutional investor serving a retirement system. I have developed and written financial policy statements for clients, evaluated investment manager performance and performed manager due diligence.

5. Please describe your membership in relevant professional or trade organizations. Please note any offices held, etc.

Member, Global Association of Risk Professionals
Member, Association of Certified Fraud Examiners
Member, Silicon Valley Venture Capital/Private Equity Roundtable Advisory Board

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6. Please state any other information, which you feel, would be useful in reviewing your application

With a background as an engineer/physicist, I have a strong skill set applicable to actuarial analysis, risk budgeting and other quantitative areas. I often use this background to distill complex situations into simple-to-understand, easy-to-communicate concepts.

My parents were both union members in Minnesota. I understand and respect the perspective of the Retirement System's beneficiaries.

B. FAMILIARITY WITH BOARD

1. Please describe your understanding of the role and responsibilities of Retirement Board members?

Retirement Board members have a fiduciary responsibility over the assets of the retirement system. They act primarily to provide benefits for plan participants and their beneficiaries. Secondly, they act to minimize contribution requirements to the fund and to minimize expenses of administering the system. The Board oversees asset allocation in order to diversify risk and maximize the rate of investment return. They also oversee actuarial analysis to assure fund adequacy.

2. Please describe your understanding of the relationship between the Retirement Board and City Council? The City Administration? Retirement Services staff? Employee bargaining units? Plan participants and beneficiaries?

The City Council appoints the Retirement Board members. Retirement Board members set investment policy as a fiduciary to the Retirement Plan participants and beneficiaries. This policy is implemented by the Retirement Services staff. The City Administration negotiates with employee bargaining units to determine pension benefits and employee contributions for Plan participants. Contributions to the Retirement Plan are made by both the employees and the City, but only the City is the final guarantor of all benefits.

4. What do you consider the three most important issues currently facing the Retirement Board?

Fund the current unfunded liability.
Achieve results to meet actuarial assumptions.
Make the best possible asset allocation decisions to achieve results which inspire trust and confidence of the Retirement System's beneficiaries and other stakeholders.

5. What do you perceive as the short and long-term goals of the Retirement Board?

Short term:
Oversee selection and assess risk of various investment opportunities.
Assure adequate liquidity to meet the fund's liabilities.

Long term:
Plan and manage funds to provide optimum risk/reward for the Retirement System's beneficiaries.
Assure assets and the investment strategy are appropriate to meet all projected liabilities. In other words, have a fully funded Plan.

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APPLICATION FOR APPOINTMENT AS A PUBLIC MEMBER**

C. EXPERIENCE/EXPERTISE

1. How do you ensure that you are maintaining an in-depth and up-to-date knowledge of institutional investing and the capital market environment?

I work on investment-related issues every day. Since 2006 I have taught Portfolio Management, the advanced investments course, in Golden Gate University's MBA program.

I have been active in the alternative investment area since 1989 and I attend many investment-related conferences each year. I am very current in my knowledge of investment issues.

2. Given the current status of the capital markets, where do you see opportunities to increase return and reduce risk in the pension portfolios? What is your experience with risk budgeting?

As I manage an equity portfolio every day, risk budgeting and management is a constant focus. At Harvard University's endowment I managed the risk budget for my own \$800 million portfolio and participated in the overall fund's risk budgeting process. There are always opportunities to reduce risk and increase returns, but they must be considered holistically with the Retirement System's objectives. Any action should be taken only with a clear understanding of the risk and the expected benefit. With care, risks can be managed.

3. Please describe your views on the role of asset allocation and provide detail on your recommended asset classes and proportions for pension funds like those serving the employees of the City of San Jose.

Asset allocation is the critical foundation for an investment plan. Alpha returns are simply an overlay on that foundation. Any asset class chosen must make common sense to the board members. Investments which are so complex they cannot be understood by everyone on the Board probably have hidden risks which make them inappropriate for the Retirement System. See Attachment I for details on my recommended asset classes and proportions for pension funds.

4. Should pension plans like those in San Jose invest in alternative investments such as private equity, commodities, infrastructure or separate account real estate? If so, how? If not, why?

These investments may be appropriate, but should be considered with care. Issues to overcome before committing to such an investment include: How will this investment correlate with other investments? Could lack of liquidity cause a problem? Is the fundamental case for investment strong? Is this an especially attractive opportunity? What is the risk; what can go wrong?

5. How would you evaluate an investment manager? When would you terminate an investment manager? How should manager due diligence be conducted?

There are many factors to consider in manager evaluation. Some are quantitative (returns, volatility, risk control, alpha generation) and others are qualitative (transparency, tenacity). Due diligence should be extremely thorough; all members of the investment team should be interviewed. A manager's ability to generate alpha must be understood by the Board. Termination of a manager should be considered if: 1) they do not do what they agreed they would do 2) loss of an important investment professional from the team 3) loss of a large portion of assets managed 4) ethical or legal violation.

6. What should be included in a pension plan's statement of investment policies? Please address the roles of trustees, staff, consultants, investment managers and custodians in asset allocation, portfolio structure, manager selection and due diligence, rebalancing, reporting and analysis.

A statement of investment policies should outline policies such as acceptable risk, permitted investments, guidelines for rebalancing, diversification, volatility and liquidity. Trustees set policies, such as asset allocation and portfolio rebalance guidelines, to safeguard the funds for the benefit of members and beneficiaries. The Staff manages day-to-day operations and implements the policies and programs established by the Board. They also assist the Board in establishing policies and analyzing results. Consultants assist the Board in establishing policies with appropriate risk and rate-of-return objectives to meet funded status and administrative expense objectives. They also conduct asset allocation studies and assist the Board in selection and due diligence for new managers. Managers structure and manage investment portfolios consistent with specified guidelines. The Custodian holds and accounts for the Plan's assets.

**CITY OF SAN JOSÉ - RETIREMENT BOARDS
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D. CONFLICT OF INTEREST.

1. State and local law require that Retirement Board members publicly disclose, in advance of action being taken, any conflict of interest, including sources of income, interests in real property or investments, on a matter agendized for Board action; recuse themselves from voting on such item; and leave the room while the item is being discussed and voted on, unless the item is a consent or uncontested item. Please confirm that you have reviewed and agree to comply with San Jose City Council Conflict of Interest Policy (Council Policy No. 0-34); and Government Code Sections 1090 and 87105.

- Yes, I have read and agree to comply
 No, I have not read and/or do not agree to comply.

2. In addition, if appointed, you will be required to fill out a disclosure statement, which identifies certain of your financial interests beginning with the immediate twelve-month period prior to your appointment and annually on or before April 1 of each year thereafter. Please confirm that you have read Fair Political Practices Commission (FPPC) Form 700 Reference Pamphlet and agree to file required FPPC Form 700 Statements of Economic Interest, as required by current City Council Conflict of Interest resolution.

- Yes, I have read and agree to comply
 No, I have not read and/or do not agree to comply.

3. Have you ever been required to file a Statement of Economic Interest (Form 700) and failed to do so? Yes No If yes, please explain in complete detail.

4. If you were required to file a FPPC Form 700 Statement of Economic Interest as a Retirement Board member as of the date of this application, would you have any financial interests that you would be required to disclose other than your financial interest in the employment already disclosed in this application? Yes No If yes, please identify any interest that you would be required to disclose as an attachment to this application.

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5. Please identify any organizations, associations, or entities in which you are active, or with which you are involved or associated that might be affected by decisions of this Board, and the positions you hold.

McCullough & Associates LLC - My current employer; may not be hired as a manager due to conflict of interest.

6. Please confirm that you have reviewed and agree to comply with the San Jose Municipal Code Chapter 12.08 (Prohibition of Gifts), City of San Jose Ethics Policy (City Policy Manual 1.2.1), and City of San Jose Gift Policy (City Policy Manual 1.2.2).

- Yes I have read and agree to comply
 No I have not read and/or do not agree to comply.

E. BACKGROUND CHECKS AND REFERENCES

1. Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years (except for minor traffic offenses that resulted only in a fine)?

Yes No If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider relevant.

2. Are you or your firm currently or within the past five years been the subject of any litigation or claims resulting from any investment activity, advice, a fiduciary relationship, or regarding alleged financial improprieties? Yes No If yes, please provide details.

3. Are you or your firm currently or within the past five years been the subject of any investigation or disciplinary action by any governmental and/or regulatory body (SEC, NASD, states Attorney General or Insurance Commissioner, etc.)? Yes No If yes, please provide details.

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4. Please provide four personal and/or business references (not relatives). Please include name, address, email, and telephone number.

How did you learn of a vacancy on this Board?

- Internet
- Newspaper
- Advertisement – Source: _____
- City Website
- Personal contact from Councilmember
- Personal contact from City staff member
- Word of mouth
- Other (please specify)



Submit to:
City of San Jose
Office of the City Clerk
200 E. Santa Clara Street, Wing Room 243
San Jose, CA 95113-1905
Phone: (408) 535-1260
Fax: (408) 292-6207
CityClerk@sanjoseca.gov
Attention: Dennis Hawkins

**This form has been enabled to allow you to save your changes in order to submit by fax or mail.
Please contact Rebecca Hall at (408) 535-1264, if you have any issues submitting online.**

NOTE: There is one additional blank sheet on the next page if needed.

Attachment I

Since you have requested "detail on your recommended asset classes and proportions for pension funds," I am providing the asset allocation table below as my "first cut" for discussion.

Target Asset Allocation

Domestic equities	22%
Foreign equities, including emerging markets	16%
Fixed income – Domestic, foreign and high yield	<u>25%</u>
Total marketable securities	63%
Private/alternative investments	37%

- Private/alternative investments include private equity, venture capital, real estate, commodity-related assets and absolute return funds.
- The actual allocation should be set +/- 30-50% of the target allocation above, depending on perceived opportunities.
- To protect against inflation, assets which will hedge the impact of inflation, such as TIPS or commodities, should be a significant position for the portfolio.

Martin Dirks

RETIREMENT BOARDS APPLICATION FOR APPOINTMENT AS A PUBLIC MEMBER

CITY OF SAN JOSÉ

MARTY DIRKS

EQUITY ANALYST/PORTFOLIO MANAGER

Senior-level long/short equity analyst and portfolio manager. Extensive experience in long/short, market-neutral investing and paired trades. Short seller experienced in the detection, investigation, and quantification of financial reporting fraud.

PROFESSIONAL EXPERIENCE

McCullough & Associates, San Francisco, CA 2010-present
Equity Analyst: Research and manage positions for equity investment portfolio.

- Conduct primary research on domestic large and small cap equities
- Develop and utilize sophisticated valuation and analysis tools using CapitalQ database
- Lead firm's investment committee strategy and implementation efforts

ISA Capital Management, San Francisco, CA 2000-2010
Analyst/Portfolio Manager: Researched and managed market-neutral equity investment portfolio.

- Researched and managed long/short domestic equity portfolio
- Implemented paired trades, stub trades and option strategies to minimize market risk
- Set up infrastructure for two startup hedge funds

Harvard Management Company, Boston, MA 1994-1999
Equity Analyst/Portfolio Manager: Sole manager of market-neutral portfolio for Harvard's endowment.

- Long/short technology equities portfolio manager
- Generated an average unleveraged annual return on investment of 43% per year
- Portfolio increased from \$110 million to \$870 million (January 1994 to June 1999)
 - 130/30 portfolio, a market-neutral portfolio plus index. Audit of results available.

Odyssey Partners, New York, NY 1991-1993
Equity Analyst: Researched and recommended long and short equity investment positions for a partnership portfolio in excess of \$1 billion.

Feshbach Brothers, Palo Alto, CA 1989-1991
Equity Analyst: Researched and managed short equity positions for \$1 billion short portfolio.

ADDITIONAL EXPERIENCE

- Adjunct Professor at Golden Gate University since 2006. Currently teach Portfolio Management, the advanced investments course in the MBA program
- Venture Capital Investment Challenge (VCIC) Judge – Competition for top MBA students
- Merger/acquisition analyst with Cooper Industries, a Fortune 100 industrial company
- Program manager/product engineer with Texas Instruments

EDUCATION

Harvard Business School, Master in Business Administration Boston, Massachusetts
Bemidji State University, Bachelor of Science in Engineering Physics Bemidji, Minnesota