

Investment Plans Committee

Regular Meeting
Minutes
December 17, 2008

A regular session of the Investment Plans Committee (IPC) was held on Wednesday, December 17, 2008 and convened at 8:38 a.m. and adjourned at 12:10 p.m. at 300 Lakeside Drive, 20th Floor; Oakland, California, 94612.

Committee Members or Alternate Members Present:

Elaine M. Kurtz,	BART alt.
Howard D. Jones,	SEIU
Robert Fernandez,	SEIU alt.
Carolyn Pope-Chappell,	ATU
Hubert LaViolette,	ATU alt.
Rube Warren,	AFSCME
Jean Hamilton,	AFSCME alt.
Kory Frost,	BPOA
Michael Pon,	BPOA alt.

Committee Members or Alternate Members Absent:

Teresa Murphy, BART

Other Attendees:

Ann-Marie Carlson,	ICMA-RC
Russ Richeda,	Saltzman & Johnson
Marcia Beard,	R.V. Kuhns
Peter Horikoshi,	BART
Arne Stokstad,	BART
Carolina Lopez,	BART

AGENDA ITEM 1 - Convene and Sign-in

The meeting convened at 8:38 a.m. and was chaired by Elaine Kurtz.

AGENDA ITEM 2 – Public Comment

There were no public comments at the December 17, 2008 BART Investment Plans Committee’s public meeting.

AGENDA ITEM 3 - IPC Chair Report - “Check-in” by IPC Members

There were no check-in items by committee members.

AGENDA ITEM 4 - Discussion and Action Concerning

a) Minutes – September 18, 2008

The Committee reviewed the September 18, 2008 meeting minutes and approved the following motion:

Motion: To approve the September 18, 2008 meeting minutes with the following modifications:

Page 2 – No. 3: Change – “*ISSUE:* ICMA-RC in November 2007, erroneously deducted moneys from each participant’s account in the deferred compensation plan ~~of~~. ICMA-RC identified the error within three days and repurchased the shares sold, resulting in a plan-wide gain.”

b) Minutes – November 25, 2008

The Committee reviewed the November 25, 2008 meeting minutes and approved the following motion:

Motion: To approve the November 25, 2008 meeting minutes with the following modifications:

Page 3 – Agenda Item 4b: Minutes - October 22, 2008

Page 4 – Agenda Item 6: Change – “**Investment Policy Guidelines:** ~~Based on the fund track record not the plans’ experience record.~~ *The Investment Plans do not have a five-year track record with the Nationwide Fund. The Fund was added to the line-up in January 2005.*”

Page 6 – Agenda Item 7: Change – “NorthPointe Fund Management ~~has Bbought themselves back Ffirm~~ from Nationwide. The Fund will continue to be called Nationwide, but that could change in the future.”

Page 5 – Agenda Item 6: Change – “Agenda Item 6 ~~7~~”

Page 7 – Agenda Item 8b: Change – “The Committee directed legal counsel to send out a revised draft via email to the Committee and, in the event there was not a request from a Committee member to agendaize the report, then legal counsel was directed to submit the report together with the associated collection of documents to Mr. Davenport”.

Page 8 – Agenda Item 10a: Change – “The report was ~~received~~ accepted as ~~expected~~ presented”.

AGENDA ITEM 5 – Discussion and Action Concerning

- a) Record Keeper Report - Ann-Marie Carlson of ICMA-RC provided the following transaction summary for the 401(a) Money Purchase Pension

Plan and 457 Deferred Compensation Plan for the month ending November 30, 2008.

November 2008	401(a) MPP	457 Deferred Comp
Opening Balance	\$217,953.106	\$334,257,902
Contributions	\$176,711	\$1,544,758
Roll-ins	\$15,428	\$18,895
Distributions	(\$839,000)	(\$1,572,800)
Adjustments	(\$6,734)	(\$6,734)
Plan to Plan Transfers	\$0	\$0
Earnings	(\$6,896,787)	(\$12,797,140)
Service Fees	(\$130)	(\$332)
Closing Balance	\$210,402,593	\$321,444,549
Change	(\$7,550,513)	(\$12,813,353)

The Record Keeper reported that there was one airtime purchase from the 401(a) plan as well as one airtime purchase from the 457 plan.

The Reimbursement Reconciliation Report was furnished to the Investment Plans Committee (IPC) to provide payment history of the various fund reimbursements. It was noted that payments from T. Rowe Price, Dodge & Cox and Westwood were received as anticipated. The IPC requested further follow up by RV Kuhns on the Rainier September monthly payment which has not been received as of the date of this report. ICMA-RC will check to see if this may have been received after the "as of date" of November 1, 2008 of this report.

Also reviewed by the record keeper was the ICMA-RC Fund Information Report covering Plan Asset Balances as well as Contributions for the period of 11/1/08 – 11/30/08. In addition the record keeper reviewed and provided to the IPC the Market Trends for Participants Report covering Balance Trends, Fund Transfer Activity, Fund Transfers by Day and Number of Calls to Investor Services. This information covered activity in the 457 plan from August – November 2008.

- b) IRA Mailings - IRA informational periodic mailings to plan participants by ICMA-RC was presented. In the past the IPC has not participated in this participant mailing by ICMA-RC. The IPC agreed to continue with its past practice of not participating in any IRA mailings from ICMA-RC to participants.
- c) Vantage Broker Login Process – A letter to Peter Horikoshi from ICMA-RC describing Online Brokerage Platform Enhancements was delivered to Mr. Horikoshi and the IPC. These enhancements include improved navigation, new features, enhanced "look & feel" and a simplified login process. In addition, copies of the letter that has been sent to all

participants participating in VantageBroker outlining these enhancements were distributed.

In response to a committee member's request, a draft of a letter that will be sent to all VantageBroker participants outlining an abbreviated process to access VantageBroker was provided. This letter was approved to be sent to VantageBroker participants.

- d) Premier Services – Pursuant to the current record keeping agreement with ICMA-RC, the IPC must elect each year to continue Premier Services. Information was provided to the IPC that since January 1, 2008, the number of participants in the program has increased by 17% (as of September 30, 2008). ICMA-RC informed the IPC that there would be a 3% increase in price for the next year, commencing March 1, 2009. The IPC agreed to extend the Premier Services for an additional year with the annual cost of \$12,750 increasing 3% to \$13,132.

AGENDA ITEM 6 – Discussion and Action Concerning

- a) Investment Performance Report: November 2008

The focus of the investment consultant report was a review of the capital markets through November 2008. September and October saw all major market indices in negative territory with the exception of Treasury bonds in a continued flight to safety. There was truly no where to hide. November brought a rebound in the credit markets and, in particular, long corporate bonds. The Barclays Capital US Aggregate Index (formerly the Lehman) experienced its third best month performance up 3.25%. Riskier assets continued to suffer with the Russell 2000 Index down over 11.50% in the month.

All funds underperformed their respective benchmarks in this unprecedented market with the exception of RCM large cap growth and Westwood. R.V. Kuhns did not recommend any changes to the line-up at this time.

AGENDA ITEM 7 – Discussion and Action Concerning

- a) Claim by Davenport - Legal counsel presented a revised draft report on the claim by participant John Davenport who had presented his claim at the October 22, 2008 committee meeting. The Committee did not suggest any further modifications to the report. Legal counsel informed the Committee that he would be mailing the final version of the report to Mr. Davenport along with the booklet of relevant documents.

AGENDA ITEM 8 – Discussion and Action Concerning

- a) Follow up on Returned Mail – Staff presented a service that ICMA-RC currently uses to locate unknown participant addresses. An estimated

charge of \$130 would be the cost to provide this service to the Investment Plans Committee. The Committee approved this charge and directed staff to pursue this service through ICMA-RC.

- b) NorthPointe Capital – On December 9, 2008 ICMA-RC notified BART that the Nationwide Micro Cap Equity Fund that is managed by NorthPointe Capital had stopped accepting new contributions as of December 5, 2008. The Investment Plans Committee on December 15, 2008 sent a letter to all plan participants explaining the situation and promised to provide further information about the status of this fund. The table below was included in the letter and provides a chronology of events prior to the December 17, 2008 Investment Plans Committee meeting.

Date	Time	Event
12-9-08	10:44 am	Initial notice to record keeper (ICMA RC) of a 12-5-08 decision to close the fund immediately
	12:20 pm	Initial notice to BART of this information
	3:56 pm	BART notice to IPC, including preliminary plans regarding upcoming payroll, participant communication, and agenda item for 12-17-08 IPC meeting
12-10-08	3:29 am	Notice that record keeper was closing fund to incoming contributions, and that one 12-8-08 deposit would require research and follow-up
	6:57 am	Info to ICMA RC that fund closed 12-4-08
	8:37 am	NorthPointe to BART indicating that immediate closure notice was error/misunderstanding, anticipating to be able to report later in the day that funds would be accepted
	8:39 am	Learned that 12-5-08 contributions from BART participants to this fund were not accepted
	9:22 am	Investment advisor (R. V. Kuhns) indicated that immediate fund closure was apparently an error; that NorthPointe had not known of it prior to 12-9-08; and that confirmation that the fund would be accepting contributions was expected
	9:28 am	Update to IPC
12-11-08	1:28 pm	Confirmation received from NorthPointe that contributions would be accepted at least through 12-31-08
	1:53 pm	Update to IPC
12-12-08	12:58 pm	Notice that funds would be accepted through 1-6-09

Subsequent to the mailing of the letter, it was determined that there was no loss or gain to participants whose contributions were initially rejected on December 5, 2008 and later accepted on December 12, 2008. The share price was \$5.61 on both December 5, and December 12, 2008.

Marcia Beard, the investment consultant to the committee, informed the Committee that they had four issues to consider as follows:

1. Will Nationwide extend the new contribution deadline past January 6, 2009?

2. The Committee could direct the record keeper to move new contributions into a like fund such as a micro cap index fund or an exchange traded fund (ETF) that would be passive not active. ICMA-RC researched this idea and advised that ETFs are not an option because they cannot be traded by the National Securities Clearing Corporation, which ICMA-RC uses for trading.
3. ICMA-RC does have other micro cap funds approved on their platform. They will notify R.V. Kuhns as to whether these funds are open or closed to new participants.
4. Contributions should go to a like asset class. The Rainier Small/Mid Cap Equity Fund is most closely correlated to the micro cap equity fund at a .96 correlation. This fund is currently in the investment plans lineup.

Neither ICMA-RC (the record keeper) nor R.V. Kuhns (the Committee's investment consultant) have ever seen a "hard close" like this where contributions are suddenly rejected. The Committee discussed the following options prior to the conference call with NorthPointe:

1. Where to map contributions as of January 6, 2009 or by whatever new deadline is set by Nationwide.
2. Look for long-term solutions as soon as is prudently possible, including whether the micro cap equity option is still a viable alternative for participants.

As scheduled, the Committee contacted Sarah Shattner, Michael Hayden, and Karl Knas at NorthPointe Capital by telephone. The Committee asked if any progress had been made with regard to extending contributions past the January 6, 2009 date and requested an overview of the series of events that had taken place in the past two weeks. Michael Hayden, CEO of NorthPointe Capital, stated that discussions were continuing with Nationwide to extend the ability to receive contributions past January 7, 2009 but that a specific date had not as yet been determined. NorthPointe agreed to notify the Committee by the end of the day if they were successful in extending the date that Nationwide will accept contributions. NorthPointe deeply regretted what BART participants are going through. Nationwide is primarily an insurance company and wanted to exit the mutual fund business. On December 3, 2008, Nationwide's board decided to liquidate a number of mutual funds, including the micro cap equity fund. Nationwide did not inform NorthPointe Capital that contributions were to stop immediately. Michael Hayden indicated that NorthPointe would have its own fund options available by mid-April 2009.

It was made clear to NorthPointe that the Investment Plans Committee needed to know today definitively what is the last day that Nationwide would accept contributions into the Nationwide Micro Cap Equity Fund. Committee members, the investment consultant, and legal counsel asked several follow up questions.

1. Will the same team manage the existing money until April when the funds are liquidated? Yes.
2. Does Nationwide have a say to the custody of fund assets? There is a custodian and the money cannot be touched.
3. As we get closer to April, do you foresee liquidation problems and should the Committee advise participants to take their money out before April? Shares in the fund are bought and sold each business day and there is always some liquidity in the funds. They do not foresee liquidation problems.

NorthPointe Capital committed to notifying the investment consultant and BART staff of any change in the contribution deadline by the close of business Eastern Standard Time on December 17, 2008.

Motion: To inform participants of the last day that contributions will be accepted (as notified by NorthPointe Capital) and that contributions will be mapped to the Rainier Small/Mid Cap Equity fund unless the participant makes a change before the deadline. The Committee will also inform participants that the Committee is undertaking a review of long-term solutions and will reassure participants that this is an isolated incident.

The motion was approved.

The investment consultant and Committee Member Elaine Kurtz will draft a second letter to participants to be sent as soon as possible, informing them of these new developments.

AGENDA ITEM 9 – Discussion and Action Concerning

- a) Monthly Budget Review & Vendor Reconciliation Report (November 2008)
Staff presented the monthly budget review and vendor reconciliation report for November 2008, including a year-to-date view of income and expenses of the Administrative accounts. The report was accepted as presented.
- b) 2007 Audit Update – Staff continues to work with ICMA-RC in reconciling bill payments. Fund balance information has been entered and reconciled in QuickBooks. When this work is completed, the auditors will review all submitted material and work on completing the 2007 audits.
- c) Workshops/Seminar – Staff provided invitations to a dinner seminar hosted by the Instituto Laboral de la Raza.
- d) 2009 Meeting Schedule - Staff distributed meeting schedules for regular monthly meetings and hardship withdrawal meetings for 2009. The Committee approved these schedules.

- e) Fund Reimbursement Statements – The record keeper covered this statement in her portion of the meeting.
- f) Committee Contact List – Committee members reviewed and provided corrections to the emergency contact list. Staff will email the updated list to committee members.
- g) Deminimis Accounts – This item was deferred to a future meeting

AGENDA ITEM 10 – Closed Session Pursuant to Government Code Section 54957.10: Hardship Application(s)

The Committee adjourned the meeting at 11:55 a.m. to enter into closed session to consider a Hardship Withdrawal Application that was denied. The Committee reconvened the public meeting at 12:10 p.m.

AGENDA ITEM 11 – Adjournment

The Committee adjourned the meeting at 12:10 p.m.