

Investment Plans Committee

Regular Meeting
Minutes
April 28, 2010

A regular meeting of the Investment Plans Committee (IPC) was held on Wednesday, April 28, 2010 and convened at 8:35 a.m. and adjourned at 1:10 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:

| | |
|------------------|------------------------------------|
| Bob Thompson, | Dodge & Cox |
| Steve Gorski, | Dodge & Cox |
| Rose Roberts, | ICMA-RC (record keeper) |
| Russ Richeda, | Saltzman & Johnson (legal counsel) |
| Marcia Beard, | R.V. Kuhns (investment consultant) |
| Peter Horikoshi, | BART |
| Arne Stokstad, | BART |
| Carolina Lopez, | BART |
| Julie Klassen, | member of the public (Great-West) |

AGENDA ITEM 1 - Convene and Sign-in

AGENDA ITEM 2 - Public Comment

There were no public comments at the April 28, 2010 BART Investment Plans Committee's public meeting.

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

A committee member commented that the retirement planning workshop held in March was very informative.

It was announced that an earthquake drill was scheduled for today.

**AGENDA ITEM 4 - Discussion and Action Concerning
Minutes – March 15, 2010**

The Committee reviewed the minutes and approved the following motion:

Motion: To approve the March 15, 2010 meeting minutes with the following modifications:

Page 1 – Other Attendees: Add - John O’Halloran, Rainier and Daniel Brewer, Rainier

Page 3 – Agenda Item 6: Change – “David Daniel reviewed what worked for the portfolio in the last eighteen months and what did not.”

Page 4 – Agenda Item 7a: Change –

| 2010 | 457 Deferred Compensation | 401(a) Money Purchase Plan |
|---|----------------------------------|-----------------------------------|
| Opening Balance as of March 1 <u>February 1, 2010</u> | \$380,198,277.89 | \$236,451,242.65 |
| Contributions | \$1,720,665.10 | \$1,177,444.25 |
| Roll-ins | \$268,722.97 | \$25,077.56 |
| Distributions | (\$1,324,246.17) | (\$1,607,580.40) |
| Adjustments | \$0.00 | \$0.00 |
| Plan-to-Plan Transfers | \$0.00 | \$0.00 |
| Earnings | \$5,047,283.41 | \$2,750,210.51 |
| Service Fees | (\$145.00) | (\$4,384.86) |
| Closing Balance as of March 31 <u>February 28, 2010</u> | \$385,910,558.20 | \$238,792,009.71 |
| <u>Change</u> | \$5,712,280.31 | \$2,340,767.06 |

Page 5 – Agenda Item 7a: Change – “T. Rowe Price is looking into sending by wire or ACH electronic deposit.”

Page 6 – Agenda Item 9a: Change – “The sessions will focus on presenting the following: ~~the investment lineup and describing how each of these funds might fit into a participant’s portfolio, a separate session on target retirement date funds, special programs like contributions to the Money Purchase Pension Plan through~~

~~the District's buy back programs, rolling funds from a previous employer's tax deferred plan and deferred compensation catch up programs, and how to use on-line resources plus the importance of beneficiary designations for final distributions.~~

- the investment lineup and describing how each of these funds might fit into a participant's portfolio,
- a separate session on target retirement date funds,
- special programs like contributions to the Money Purchase Pension Plan through the District's buy back programs,
- rolling funds from a previous employer's tax deferred plan and deferred compensation catch up programs, and
- how to use on-line resources plus the importance of beneficiary designations for final distributions."

Page 7 – Agenda Item 10d: Change – “Staff met with the accountant, George Carathimas, several times in the past few weeks to let the accountant familiarize himself with the kinds of entries and accounts, income and expenses that the plans commonly use.”

Page 7 – Agenda Item 11: Change – “The Committee adjourned the meeting at 12:15 p.m. to enter into closed session and discuss recently reviewed cases related to the IRS' rules on unforeseeable emergencies affecting a participant's qualifying dependent and or beneficiary. The Closed session was adjourned at 12:30 p.m.”

AGENDA ITEM 5 – Discussion and Action Concerning Investment Consultant Report

a) First Quarter Economic Environment

In the first quarter of 2010, capital markets continued to rebound from March 2009 lows. Commodities posted a loss in the quarter, but nearly every other asset class posted positive returns. The Federal Reserve continued to hold the Federal Funds Target Rate to a range of 0% to 0.25%. The dollar's gain was fueled by optimistic domestic economic data coupled with concerns over the Euro-zone stemming from trouble in Greece. The US seasonally adjusted unemployment rate fell moderately from 10% in December to 9.7% in March.

The Consumer Price Index rose 0.78% this quarter after falling a marginal 0.01% in the fourth quarter of 2009. The Treasury yield curve remains among the steepest ever recorded, suggesting that investors may not agree with the Fed's inflation outlook of subdued inflation trends and stable inflation expectations. Interest rates on Treasuries across the maturity spectrum held steady during the first quarter, with the yield on the 10-Year Note falling only 0.01% to 3.84%.

First Quarter Equities

Global equities continued to rise, this time led by small-cap US stocks. Over the trailing year, emerging markets and international small cap equities were the best performers, each posting gains in excess of 70%. In a complete reversal from last quarter, small-cap US stocks outperformed large-cap stocks, while value led growth. Both the S&P 500 and the MSCI ACWI ex US saw positive returns in most sectors, though both indices experienced losses in telecom and utilities; the international index also posted losses in energy and health care. Notably, public REITs have returned nearly 114% over the trailing year as investors anticipate a recovery in the sector.

First Quarter Fixed Income

Yields held fairly steady across all maturities and gains in the fixed income space were broad-based. Only world government bonds posted losses, mostly driven by concerns surrounding sovereign debt in Greece and other European Union countries. High yield US corporate issues and emerging market bonds posted the strongest gains, both in the first quarter and over the trailing year. Every sector of the Barclays Capital (BC) US Aggregate experienced positive returns; Commercial Mortgage Backed Securities (CMBS) led all sectors for the third straight quarter with a return of 9.10%. The CMBS rally was driven by a broad improvement in credit markets and a flood of money from government programs such as the Term Asset-Backed Securities Loan Facility (TALF) and Public-Private Investment Program (PPIP).

The Plans' funds outperformed their respective benchmarks for the twelve months ended March 31, 2010, with the exception of the RCM Large Cap Growth, Rainier Small/Mid, Westwood Smid Cap, Templeton Foreign Equity and the Dwight Stable Value funds.

The IPC and consultant conducted their quarterly Investment Policy Review:

- Dodge & Cox Stock Fund fell below the three and five year policy expectations for performance relative to their policy benchmark. Per the Policy, the Fund is expected to perform above median in a universe of peers. Dodge & Cox's return was below median for the 3 year period but above median for five years. The IPC agreed that Dodge & Cox's performance had improved dramatically in 2010 and 2009 and would not make any changes at this time.
- PIMCO All Asset Fund fell below the three and five year policy performance expectation. The IPC agreed to keep PIMCO on their watch list but would not make any changes at this time. The investment consultant encouraged the IPC to consider a multi-manager approach for this option.

- Rainier Small/Mid Cap Equity Fund fell below the three and five year policy expectations for performance relative to its policy benchmark. Against its peer universe the Fund fell below the policy expectation for the three year period and for the five year period. The IPC agreed to take no action at this time since long-term performance for the Fund is strong and there have been no changes to the team.

Manager Focus – Dodge & Cox

The investment consultant provided detailed information on the Dodge & Cox Funds in anticipation of the presentation from Dodge & Cox.

Stock Fund

The Fund performed in line with the Russell 1000 Value Index in the quarter and outperformed the Index by 10.90% for the one-year period ended March 31, 2010. 2009 was a very strong year for the Fund beating its benchmark by 646 basis points. Although ahead of its benchmark in 2009, the Fund experienced very disappointing returns in 2008 both on an absolute and relative basis. Longer-term performance for the Fund is strong. The Fund beat the Russell 1000 Value Index in 2009 and 2007 and 2000 through 2005. Prior to 2007, the Fund ranked in the top-quartile of its peer universe in each calendar year. Over the last ten years, the Fund captured 115.9% in the quarters when the benchmark went up and only captured 94.5% when the benchmark experienced down quarters. The investment team at Dodge & Cox has been very stable.

Income Fund

The Income Fund beat the BC Aggregate Index by 46 basis points in the quarter and outperformed the Index by 10.66% for the one-year period ended March 31, 2010. The Fund experienced very disappointing returns in 2007 and 2008 on an absolute basis. The Fund lost 0.29% in 2008 compared to the BC Aggregate Index which gained 5.24% in the same period. Longer-term performance for the Fund is stronger. Over the last ten years, the Fund captured 107.6% in the quarters when the benchmark went up but only captured 99.70% when the benchmark experienced down quarters. The investment team at Dodge & Cox has been very stable.

AGENDA ITEM 6 – Fund Manager Update: Dodge & Cox

Steve Gorski and Bob Thompson attended. Dodge & Cox was founded in 1930 and has remained 100% owned by active employees. As of March 31, 2009 the Stock Fund had total net assets of \$42.7 billion with an expense ratio of 0.52%. The total net assets under management for the Income Fund were \$20.7 billion

and the expense ratio was 0.43%. Bob assured the IPC that they maintain their focus on their investment philosophy which has not changed since the firm's inception: long-term focus, an emphasis on value and diligence in analyzing risk.

As anticipated, Dodge & Cox is going through their fourth transition of firm leadership. John Gunn is sixty-six and as required by their by-laws, Mr. Gunn began selling his shares to the firm at age 65 and will have all shares sold by the year in which he turns 70. Mr. Gunn will remain at Dodge & Cox as part of the team but his CEO responsibilities have been transferred to Ken Olivier. Gunn's role as Chairman will move to Olivier in 2010.

Mr. Thompson and Mr. Gorski acknowledged that this meeting with the IPC would be more enjoyable than last year when both of their strategies had unperformed in the prior year. They said that Dodge & Cox stayed true to their long-term investment philosophy but admitted they learned lessons in 2007 and 2008 when Dodge & Cox underestimated the impact of sub prime, the worsening credit crisis and the likelihood of government intervention. Mr. Thompson explained that as a result of those hard lessons, Dodge & Cox has enhanced their process to include the following:

1. New focus on liquidity. Brought on two new analysts.
2. Hired a lobbyist in Washington to help them monitor public policy and where it is heading.

Turnover historically has been about 15% but in 2008 and 2009 the Stock Fund turnover was slightly higher although still lower than industry averages.

Mr. Thompson believes that US and global economies will be resilient over the long-term including factoring in positive developments in emerging markets.

Committee member Jean Hamilton left the meeting at 9:00 a.m. and Committee member Howard Jones entered the meeting at 9:15 a.m.

AGENDA ITEM 7 - Discussion and Action Concerning Record Keeper Report

b) March Financial Highlights and Reports

The Record Keeper reviewed the following monthly reports:

- BART 401(a) and 457 Transaction Summary Reports
- BART 401(a) and 457 Fund Information Reports
- BART 401(a) and 457 Fund Detail Reports
- BART Fund Reimbursement Reconciliation Report
- BART IPC Web Activity

| 2010 | 457 Deferred Compensation | 401(a) Money Purchase Plan |
|---|----------------------------------|-----------------------------------|
| Opening Balance as of March 1, 2010 | \$385,910,558.20 | \$238,792,009.71 |
| Contributions | \$1,728,759.13 | \$1,090,875.01 |
| Roll-ins | \$61,209.88 | \$24,462.97 |
| Distributions | (\$1,641,202.70) | (\$1,142,845.43) |
| Adjustments | \$0.00 | \$0.00 |
| Plan-to-Plan Transfers | \$0.00 | \$0.00 |
| Earnings | \$13,128,819.03 | \$7,054,978.05 |
| Service Fees | (\$85.00) | (\$4,409.00) |
| Closing Balance as of March 31, 2010 | \$399,188,058.54 | \$245,815,071.31 |
| Change | \$13,277,500.34 | \$7,023,061.60 |

c) Quarterly Highlights

The Record Keeper reviewed the following quarterly reports:

- Participation Report
- Participant Status Report
- Enrollments
- Allocations
- Fund Transfers
- Phone Call Activity

The Record Keeper also compared the total contributions and distributions for the first quarters in 2007, 2008, 2009 and current quarter for each plan type. She noted that for the 457 Deferred Compensation plan, the contributions were the highest in the first quarter of 2007 at \$8.1 million compared to \$6.5 million in the current quarter. Distributions were highest in the first quarter of 2008 at \$7 million compared to \$6.1 million for the current quarter. For the 401a Money Purchase Pension Plan, distributions were the highest in the first quarter of 2007 at \$8.1 million compared to \$5.3 million for the current quarter.

When the next quarter reports are provided, the participation data will also be provided as of calendar year end 2007 and 2008 to provide further trend analysis.

d) Update on Onsite Education Activity

The Record Keeper provided a report on the onsite education activities for the quarter. The report outlined the individual onsite and telephone consultations by the Retirement Plans Specialists and the Certified Financial Planner™.

The report included the Financial Planning seminar activity.

The results of the activities were provided in terms of contribution increases, incoming rollovers and enrollments to the plans.

The Record Keeper also shared some individual success stories that occurred during the quarter with the onsite education team and participants.

d) Committee Email System

Due to an ICMA-RC technology change that affected the BART IPC web site external email service, the ability to forward emails to the Committee members was temporarily not functioning. The external service was instructed to incorporate the technology change. A test will be sent by email to each Committee member by the end of the week. Committee members should respond back to the test email to confirm that they received the test email.

AGENDA ITEM 8 – Discussion and Action Concerning Legal Counsel Report

a) Placement Agent Policy

Legal counsel discussed the memo included with the agenda materials. In that memo, AB 1584 was discussed. AB 1584 is a recently enacted state law requiring public retirement boards to adopt by June 30, 2010 disclosure policies concerning the use by investment consultants or investment managers of outside third parties (often called “placement agents”) to market those entities to retirement plans. Legal counsel stated that AB 1584 may not apply to public defined contributions plan such as the Committee but recommended the adoption of an appropriate policy as a matter of fiduciary duty. Legal counsel also indicated that any such policy would apply only to the investment consultant and the manager of a separate account (i.e., Dwight Asset Management) and not mutual funds. The Committee discussed the advantages and disadvantages of adopting a policy and concluded that adopting a policy was appropriate. The Committee thereafter considered as a matter of policy the alternatives of a policy prohibiting use of placement agents with respect to plan assets versus a policy requiring disclosure of the use of placement agents. The Committee directed legal counsel to bring back a draft policy prohibiting the use of placement agents concerning plan assets.

b) Status Update on Pending Legal Matters

Legal counsel updated the Committee on pending projects, including review of ICMA RC’s webinar on Roth IRAs and review of ICMA RC’s beneficiary account set-up and withdrawal packet. Legal counsel indicated that he and staff were coordinating with the District’s Office of General Counsel about the pending plan amendments which the Committee adopted as its recommendations in 2009. Legal counsel informed the Committee that he

would be bringing proposed amendments back to the Committee concerning rollovers to Roth IRAs.

c) Legal Updates

Legal counsel reviewed his legal update. He discussed the federal court decision dismissing the criminal indictments against former Board members and staff of the San Diego City retirement system and the California Supreme Court's decision holding that community assets used to repurchase premarital retirement service credit gave rise to a community property interest not in the full retirement benefit but only in the annuity portion of the retirement benefit, i.e., the portion of the retirement benefit due to the member's contributions.

d) Memo: Power of Attorney

Legal counsel reviewed the memo on powers of attorney under California law. He pointed out the formalities set forth in the Probate Code which are required to be met before the power of attorney would be valid. He also pointed out the protections set forth in the Probate Code in favor of the Committee when it relies upon a power of attorney that complies with the formalities set forth in the Probate Code.

Jean Hamilton re-entered the meeting at 11:10 a.m. and Arne Stokstad left the meeting at 12:00 p.m.

AGENDA ITEM 9 – Discussion and Action Concerning

a) 2010 Participant Day

The Record Keeper and staff briefed the committee on ongoing preparations for the participant day activities. The participant day is scheduled for Monday, May 24, with two sessions. The morning session will go from 11 a.m. to 2 p.m. and the afternoon session will be held from 4 p.m. to 7 p.m. The event will be held at the Metro Center Auditorium and will feature several general sessions, including a presentation on the different funds in the plan lineup, target retirement date funds, ways that employees can increase contributions to their accounts, and how participants can gain access to their accounts and use other online resources.

In addition, participants can meet with educational specialists from ICMA-RC. Preparations are well in hand, and the participant day will be held just before the next monthly IPC meeting on May 26.

b) 2010 NAGDCA Conference

Reservations are now open for the annual conference of the National

Association of Government Defined Contribution Administrators (NAGDCA). The conference will be held in Philadelphia this year. Most of the committee members attend this conference as NAGDCA's member organizations are most like the IPC, being a defined contribution plan of a governmental agency.

AGENDA ITEM 10 – Discussion and Action Concerning Staff Report

a) Monthly Budget Review & Vendor Reconciliation Report – March 2010

The Committee accepted the March budget reports as presented. There were no unusual expenditures or income in March.

b) Workshops/Seminars

Staff continues to forward notices of workshops, seminars and web seminars to committee members. There are no conferences of note on the horizon at the present time other than the NAGDCA conference.

c) 2007 Audit – Auditor Review and Scheduling Presentation Findings

Staff continues to work with the auditors to the investment plans to complete the audit of the 2007 plan year. The work with the accountant, George Carathimas, has been useful in getting the books "audit ready." In particular, the auditors and the accountant speak and understand the technical terminology related to the accounting information in the plans. Staff will continue to work to bring the auditor to an IPC meeting in the near future.

d) Accountant Review of QuickBooks Files

Staff continues to work with the accountant, George Carathimas, in QuickBooks to prepare the financial statements for the auditor for the audit of the 2007 plan year. Much progress has been made in categorizing income and expenses properly. In addition to helping staff prepare financial statements for the audit, he is advising staff on how to enter and record information for future audits.

AGENDA ITEM 11 – Discussion and Action Concerning Closed Session – The Committee adjourned the meeting at 12:45 p.m. to enter into closed session to consider an interpleader request and to review Emergency Withdrawal Applications.

a) Conference with Legal Counsel – Anticipated Litigation: initiation of litigation pursuant to subdivision of Government Code Section 54956.9:

Legal counsel requested authorization to file an interpleader in a beneficiary distribution case where two groups of beneficiaries cannot agree on how the

account of a deceased participant should be distributed. Legal counsel will continue to work with the parties to try to convince them that it is in their best interest to resolve the matter before an interpleader has been filed. An interpleader is a legal process where the Investment Plans turn over the money in the account to the court system and let the beneficiaries resolve the matter in court. At that point, the Investment Plans would have had no further legal obligations as the monies would have been distributed to the court. The Committee authorized legal counsel to file an interpleader in this particular case.

b) Closed Session Pursuant to Government Code Section 54957.10: Hardship Application(s)

The Committee considered two Emergency Withdrawal Applications of which two were approved. The Closed session was adjourned at 1:10 p.m.

A closed session of the Investment Plans Committee was held on Thursday, April 8, 2010 and convened at 1:05 p.m. to consider one Emergency Withdrawal Application of which one was approved. The Closed session was adjourned at 1:25 p.m.

AGENDA ITEM 12 - Adjournment

The Committee adjourned the meeting at 1:10 p.m.