TUCSON SUPPLEMENTAL RETIREMENT SYSTEM
BOARD OF TRUSTEES
Notice of Regular Meeting / Agenda

Meeting minutes from Thursday, April 30, 2015
Finance Department Conference Room, 5th floor
City Hall, 255 West Alameda, Tucson, Arizona 85701

Members Present:	Robert Fleming, Chairman Kevin Larson, City Manager Appointee (arrived 8:33 am, departed 9:40 am) Curry Hale, HR Director Silvia Amparano, Director of Finance Michael Coffey, Elected Representative John O'Hare, Elected Retiree Representative
Staff Present:	Dave Deibel, Deputy City Attorney Karen Tenace, Finance Deputy Director (arrived 9:24 am) Silvia Navarro, Treasury Administrator Allan Bentkowski, Treasury Finance Manager Dennis Woodrich, Lead Pension Analyst Dawn Davis, Administrative Assistant
Guests Present:	Jenefer Carlin, CTRA Representative Catherine Langford, Yoder & Langford, P.C. Merle Turchik, Turchik Law Firm P.C. (departed 9:19 am) Pete Scalzo, Former City of Tucson Employee (participated electronically, departed 9:19 am)
Absent/Excused:	None

Call to order- Chairman Fleming called the meeting to order at 8:30 AM.

A. **Consent Agenda**

1. Approval of March 26, 2015 TSRS Board Meeting Minutes
2. Retirement ratifications for April 2015
3. March 2015 TSRS expenses and revenue compared to budget

A motion to approve the consent agenda was made by Silvia Amparano, 2nd by John O'Hare, and passed by a vote of 4-0 (Kevin Larson absent, Chairman Fleming did not vote).

B. **Application For Medical Retirement** – Pete Scalzo*

Dennis Woodrich advised Pete Scalzo was available, via skype, to answer any questions the Board may have. Merle Turchik and Catherine Langford, attorneys to Pete Scalzo and the TSRS Board respectively, were also available to answer any questions. The last time Mr. Scalzo's case was discussed by the Board was at the meeting of December 20, 2012.

A motion to enter Executive Session was made by Michael Coffey, 2nd by John O'Hare, and passed by a vote of 4-0 (Kevin Larson absent, Chairman Fleming did not vote).

A motion to return to Regular Session was made by John O'Hare, 2nd by Curry Hale, and passed by a vote of 5-0 (Chairman Fleming did not vote).

A motion to grant Pete Scalzo disability retirement effective April 30, 2015 was made by Michael Coffey, 2nd by John O'Hare.

Curry Hale asked if a precedent would be set by approving disability retirement for an employee who separated from the City in 2007, 8 years prior to the approval.

Chairman Fleming clarified the Board was questioning the precedent that would be set by approving this disability retirement even though Mr. Scalzo failed to affirmatively show he was disabled in 2007 when he left City employment.

John O'Hare asked if the Board was bound by precedent in these matters.

Catherine Langford answered the Board was not bound by precedent but their decisions should be as uniform and consistent as possible. She advised if the Board was making a motion to grant the benefits effective April 30, 2015, because they believed he was disabled when he left City employment but it was just established or proven, that needs to be clarified in the motion. She said if the Board believes, based on the documentation, that Mr. Scalzo was disabled in 2007 but it was not firmly established for the Board until today, the pension could be granted from today forward; the Board needed to make note that it was because Mr. Scalzo was disabled in 2007 and it has now been established; as compared to, he establishes disability today as a terminated vested member who is not working. She believed this clarification would prevent applications for disability retirement if they became disabled after leaving City employment.

David Deibel advised the information and evidence provided to the Board does support the motion as Ms. Langford has described.

The motion failed by a vote of 0-5 (Chairman Fleming did not vote).

Subsequently, a **motion to approve the application with an effective date of April 30, 2015, based on Mr. Scalzo's disability at the time he left City employment in 2007,** as established for the Board today, was **made by Michael Coffey, 2nd by John O'Hare.**

Kevin Larson clarified that Mr. Scalzo's first application for disability retirement was submitted in 2012.

Silvia Amparano asked why Mr. Scalzo did not apply for disability retirement before leaving City employment.

Pete Scalzo answered he thought he needed approval for Social Security and VA disability benefits before applying with TSRS.

Mr. Hale stated that Mr. Scalzo's disability was not firmly established in 2007 before he left City employment, or in 2012 when the Board had previously reviewed the case.

Mr. Scalzo explained the first doctor he saw for PTSD was fired for misrepresenting his credentials and when Mr. Scalzo was evaluated by VA staff they immediately rated him at 100% for PTSD and depression.

The motion failed by a vote of 2-3 (Kevin Larson, Curry Hale, and Silvia Amparano dissenting, Chairman Fleming did not vote).

Mr. Larson said based on the evidence available, given the difficulty of obtaining records from 2007, and that the applicant did not file a disability retirement application until 5 years after separating from City employment he recommended the Board deny the application.

A motion to deny the application of Pete Scalzo was made by Kevin Larson, 2nd by Curry Hale, and passed by a vote of 3-2 (John O'Hare and Michael Coffey dissenting, Chairman Fleming did not vote).

C. **Investment Activity Report**

1. TSRS Portfolio composition, transactions and performance review for 03/31/15

Allan Bentkowski said as of 3/31/15 there was $739.4M invested in the TSRS portfolio, compared to $745.1M as of 2/28/15. The balance at 4/29/15 was $746.9M. Assets hit another all-time high on 4/24/15 of $750.5M. During the month of March $1.5M was moved out of PIMCO StocksPlus to fund retiree pension payments.

Calendar YTD – TSRS portfolio performance for the month of March was down, at -0.57% overall vs. the Custom Plan Index of -0.24%. Even though March was a down month, only 2 equity managers underperformed relative to their benchmark: Pyramis returned 1.43% vs. the Russell 2000 with 1.74% and Aberdeen posted -2.74% loss vs. the MSCI All Country World Ex-US with a -1.62% loss.

1st Calendar quarter ending 3/31/14 – TSRS performance was pretty good quarter due in large part from February's returns. During the quarter, the portfolio returned 2.12% vs. the Custom Plan Index return at 2.22%. Reviewing the fixed income returns, Blackrock U.S. Debt matched the Barclays Capital Aggregate with a return of 1.61%; and PIMCO Fixed Income returned 2.78% vs. the Fixed Income Custom Index return of 1.97%; as a result, Total Fixed investments returned 2.33% vs. Barclays Capital Aggregate return of 1.61%. For Equity managers, Alliance S&P returned 0.94% vs. the S&P500 return of 0.96%; Blackrock Value posted a loss of -0.68% vs. the Russell 1000 Value return of -0.72%; PIMCO Stocks Plus returned 1.47% compared to the S&P 500 return at 0.96%; T. Rowe Price returned 5.53% vs. the Russell 1000 Growth return at 3.84%; Pyramis returned 5.82% vs. the Russell 2000 return of 4.31%; Champlain returned 3.87% vs. the Russell Midcap return at 3.96%; Aberdeen continues to lag with a return of 0.92% compared to the MSCI all country World X-US return at 3.49%. Mr. Bentkowski advised the Board that Aberdeen would be coming in for their annual review on May 28, 2015 and that Callan would also be present. Continuing, Causeway's returns lagged with a return of 3.80% vs. MSCI EAFE return at 4.88%; in all, Total Equities slightly outperformed the composite index posting a 1st quarter performance at 2.50% return vs. the index at 2.47%. Overall Real Estate returns (all managers) posted a 3.50% return, but the NCREIF index was not available for comparison. In the Infrastructure asset class, SteelRiver returned -0.20% and Macquarie Capital returned -8.74% vs. the CPI +4% benchmark comparison at 1.54% for this category.

On a Fiscal YTD basis, through March 31st - Allan pointed out that the market has been very volatile this year. The Total Fund portfolio returned 3.45% through 3/31/15 compared to the Custom Plan Index return at 4.25%. The Total Fixed return was 2.23% vs. the Barclays Aggregate return of 3.59%; The Total Equities returned 4.46% vs. the Equity Composite return of 4.06%, with most of the equity managers performing well against their respective indexes except for Champlain at 6.65% vs. the Russell Midcap at 8.30% and Aberdeen lagging at -9.44% vs. the MSCI All Country World Ex-US at -5.76%; Total Real Estate returned 7.58% vs. the NCREIF of 10.23%; Total Infrastructure returned -7.57% vs. the CPI +4% return of 2.03%.

John O'Hare asked if rolling 12 month performance information could be added to the report. Mr. Bentkowski answered yes it could be added.

2. Board Briefing on Investment Policy Statement Revisions

Allan Bentkowski advised a new draft of the Investment Policy will be available to the Board at the meeting scheduled for May 28, 2015. The Board will be asked to approve the Investment Policy at the meeting scheduled for June 25, 2015.

3. Board Briefing on Transition Manager, Timeline for Investment Allocation Changes

Allan Bentkowski explained Callan had sent out questionnaires to 12 potential transition managers and received 11 responses. Based on criteria required to move the transition of assets forward, Callan identified 6 potential managers for further evaluation. That group has been narrowed down further by Callan and staff to 4 transition managers who will come in for staff interviews on June 3rd. Callan has suggested TSRS identify have a pool of transition managers to call on, for a variety of transition types and pay per transaction. Staff is currently looking for multi-asset class managers who can perform multi-asset class transitions. They are attempting to have all of this finished by the end of June 2015 so asset transition can occur in July 2015. Not all asset classes are affected immediately by the transition plan, because some of the real estate accounts require a timing queue for divestments or investments. Specifically, the JP Morgan Strategic Property has a 12-15 month waiting period, and the Incoming Growth account has a 24 month waiting period; as a result they will not be transitioned in July, they will be transitioned in when the money is called. The majority of asset classes should be transitioned in July. The participation agreements with American Century Investment Management have now been finalized, and the amendments with Causeway to participate in their emerging markets account have been signed.

D. **Administrative Discussions**

1. Board Member Discussion of Permanent and Total Disability Definitions / Considerations*

Catherine Langford explained this item was a follow up from the meeting held on March 26, 2015 at which there was a disability application that left the Board with questions about areas in the disability language and Tucson City Code (Code) where they could provide clarification and tighten it up procedurally. Michael Hermanson had previously asked her to explain the standards for disability under the code.

Ms. Langford said the TSRS plan document provides a total and permanent disability standard which is a physical or mental condition that renders the employee incapable of providing any type of substantial gainful services for the City, not necessarily in their prior position but any position within the City with accommodation; the condition is expected to be long and indefinite; at least 12 months. She said there have been some cases where the disability is clearly going to last until the employee passes away, and other cases where they are long term but not likely to last forever. The Code does require, if the employee is not of normal retirement age, they be evaluated on a periodic basis or submit evidence of their continuing disability. So, if the Board approved a disability application and the employee then recovered the disability pension would stop until the employee reached normal retirement eligibility. In one of the recent cases considered by the Board, the condition was long term and continuous but it was not expected to be permanent and there was some difficulty in deciding whether that should be considered a total and permanent disability for retirement purposes. Part of the struggle is trying to coordinate between the City's benefits, how long a position will be held for someone out on medical leave, long term disability, and the City's pension. It is important to remember from the Board's perspective as the trustees of the system; the decision on the disability retirement is somewhat independent of what the City's benefit package may otherwise provide. There may be a situation where an employee is out dealing with medical issues for a period long enough that their position is no longer held open for them, or they may be in a position where disability insurance is not granted or not continuing. These considerations are independent of whether or not the employee is entitled to a disability pension.

Ms. Langford said they were in the process of amending the Code because it was due for an IRS update. As part of that process, amendments will be submitted to Mayor and Council for approval as everything is brought up to date for IRS standards. It also provides an opportunity to either clarify or tighten up disability provisions, application rules, and timing requirements to resolve some of the conflict that comes up when reviewing applications. It seems appropriate to consider making changes to clarify whether a disability has to be present at the time an employee leaves employment, and consider putting in a statute of limitations regarding the amount of time an employee has to apply for disability retirement after leaving City employment. She encouraged the Board to consider whether they wanted any language in the Code to indicate how long a temporary disability should be expected to last to make an employee eligible for disability retirement.

Michael Coffey asked if retirees receiving disability benefits are asked to subsequently demonstrate the continuation of that disability, and if so how was that done.

Allan Bentkowski answered that TSRS staff sends out an audit to the retirees receiving disability benefits on an annual basis.
Mr. Coffey asked if there were any medical requirements included in the audit.

Dennis Woodrich answered there were not any medical requirements in the audit. The retirees sign an affidavit and return it to TSRS. If they do not respond after several attempts to reach them, benefits are discontinued until they respond. He thought that they would be within their right, in his understanding of the Code, to ask the disability retirees to be medically re-evaluated.

Ms. Langford stated this was true, they could request a re-evaluation.

Mr. Woodrich also suggested staff could ask the retirees to send in a copy of their income tax forms, if it appeared to be warranted by the responses indicated on the affidavit.

Curry Hale said he was a member of the PSPRS Board, and PSPRS disability retirees have to be re-evaluated every few years.

David Deibel asked if TSRS would have to pay for the requested evaluations. When Ms. Langford confirmed TSRS would pay for it Mr. Deibel asked the Board to keep that in mind because each exam would cost several hundred dollars.

Ms. Langford said the Board has the authority to require a reevaluation as necessary, as opposed to an annual requirement, though a periodic requirement also made sense. She clarified that the language in the Code states once a retiree receiving disability benefits reaches the normal retirement age disability verification is no longer required so the annual audits previously mentioned stop once the retiree reaches normal retirement age.

Mr. Coffey asked what the timeline was for the Code revisions previously mentioned by Ms. Langford.

Ms. Langford answered that the process needed to be completed and revisions sent to the IRS by the end of January 2016.

4. Discussion of Potential TSRS Plan Document Revisions **(This item was taken out of order.)**

Catherine Langford said she had some questions for the Board regarding what changes they wanted to make to the Tucson City Code (Code) for clarification. The proposed revisions would be made and brought back to the Board for approval before they were sent to Mayor and Council for approval.

Ms. Langford suggested adding specific language to the Code which says the disability has to have been present at the time of termination of employment from the City, and the member has a period of a specified number of months after termination to apply for disability.

Michael Coffey asked if the specification that the disability had to be present at the time of termination was left out of the revision erroneously.

Ms. Langford answered that the wording was never that clear, the language was better in 2002 before the rewrite done in 2009, and it was not intentionally left out. In terms of the time frame to apply for and establish disability, she recommended 12 months from the date of termination. For a service retirement the deadline is 90 days but she thought that was too quick in the context of disability. She said in some cases 12 months would be too short of a period but that it was reasonable to require an application be on file within a year of termination. She also suggested clarifying the definition of a total and permanent disability; to explain how that is a different definition than what is long and continuous. Some other systems state in their Code that a Social Security determination of disability is conclusive evidence of disability because typically Social Security disability is difficult to get. The Code language for TSRS has never included a mention of Social Security determination of disability. These are the types of things that could be incorporated if it would help the Board to make more uniform determinations and give clearer standards for the applicants.

Kevin Larson asked what the deadline was for giving feedback on this item.

Ms. Langford answered they would be coming back with proposed revisions for the Board to review and modify. She said another issue they have worked on in the last few years was the rehire of retirees. The current standard is a retiree has to be separated for at least 12 months first and they can only come back in a temporary position. If they come back after fewer than 12 months or in a permanent position their pension is suspended, this is to control the pension not the City's hiring practices. They did not want someone to retire and receive a current salary as well as their pension. Recently an analysis was performed on retirees who were separated for 12 months, performed in one temporary position, and then moved into another temporary position. The question was whether they needed to have 12 months separating the two temporary positions in order to avoid suspension, in the cases reviewed the answer was no as long as there is an initial 12 month separation after retirement and going forward each position held is temporary an employee could hold more than 1 temporary position in their retirement years. This is another issue they wanted to incorporate into the Code language without making it too inflexible.

Mr. Coffey asked if a retiree could move from one temporary position to another ad infinitum or if there was a limit.

Ms. Langford answered that at this time there was no limit but they wanted to clarify the temporary positions must be unrelated and there could not be a renewal of the temporary position that becomes permanent. There was one retiree who held one temporary position and then got another, which was unanticipated. The positions were not necessarily unrelated but it was unanticipated and it was a different job which was an acceptable situation.

Mr. Coffey asked if a limit could be set on the number of temporary positions held consecutively by a retiree.

Ms. Langford answered they could do that, for example saying a retiree could not return for any more than a total of three years. A temporary position is currently defined as one that lasts 12 months or less with a 6 month extension for a total of up to 18 months, so they could put an overall cap on employment with the City in temporary positions.

John O'Hare asked how rehiring retirees affects the pension fund.

Ms. Langford answered that from the funds perspective it is a compliance issue because the City cannot pay a pension to an employee who has not had a bona fide termination. These are ways to measure that an employee has legitimately retired, commence their pension, and they are doing something different and unrelated in the form of a temporary position. Temporary positions do not accrue pension benefits so a retiree can fill a temporary position without affecting their pension, as long as the temporary designation is legitimate. If a retiree is rehired in a full time permanent position their pension is suspended because they would continue to earn pension credit. An employee cannot earn pension credit and collect pension benefits at the same time. Another issue that keeps coming up was trying to capture the Board's decisions, whether it be the Board's interpretation of a Code provision, the Board's opinion on a disability rule, or something that would allow for a uniform application. They wanted to look at putting wording into the Code to develop a system or repository for those types of decisions other than sorting through individual meeting minutes. The repository would be a place, electronic or not, where those are stored and from a compliance perspective they become additional plan documents because they are official determinations of how the Code should operate.

Mr. Coffey asked what role the repository would play in future discussions.

Ms. Langford answered that in the case of a disability application, for example the Board could see that there were 3 policies on record that a person had to have been disabled at the time they stopped working, if it was not in the code. It would serve as a guiding factor in the Board's decisions in addition to the Code so that every disability application stands on its own but the Board has a system of rules to apply to each situation. When these types of changes are being made to the Code, the Board should think about structural issues. For example, whether TSRS staff should continue to be a part of the finance department or whether they should be appointed by the Board. Similarly, this would be the time to consider changing the Board composition, she recommended considering whether they wanted to propose adding another independent member.

Mr. O'Hare stated there were 2,500 active TSRS members and 2,500 retirees yet the active members have twice as many seats on the Board.

Ms. Langford advised she was not sure when the revisions would go before Mayor and Council for approval, but she anticipated bringing the proposed revisions back to the Board in a couple of months.

5. Discussion of Renewal Process for IRS Determination Letter for TSRS **(This item was taken out of order.)**

Catherine Langford said by January 2016 they would be making an application to the IRS for an updated approval letter. When the Code rewrite was done in 2009 it was to correct some compliance issues, and because the IRS is strongly encouraging public plans and government plans to go in for approval letters, like the private sector plans do. Eventually the IRS wants everyone to be on a 5 year rolling renewal schedule. The application will be fairly straight forward, there were no questions or significant concerns from the IRS last time the TSRS Board went through this process.

2. Board Governance Policies / Delegation of Duties

Catherine Langford said the Board needed to look at Exhibit C – Reserved Powers and Delegations of Authority. These Governance Policies are the documents they started going over at the Board retreat on October 31, 2014, and some changes have been made. This document is meant to record who is responsible for the different functions within the system. In response to one of the requests from the Board they started with delegations from the Board to staff, and up the chain to mark the authority reserved for Mayor and Council because Council members have questioned who made certain decisions in the past. The section on powers granted to the TSRS Board is more detailed than the Code in terms of setting forth the Board's authority. Exhibit C also includes powers granted to the Finance Director, System Administrator, and Investment Manager. The governance policies and this type of delegation document are a way to demonstrate that the Board is taking prudent action and running the system appropriately.

John O'Hare asked if the Mayor and Council ratified the City Manager's appointee to the Board.

Ms. Langford answered the City Manager appointee was not subject to the approval of Mayor and Council.

Mr. O'Hare said the Board should have the responsibility of performing an annual evaluation of the TSRS staff since TSRS pays for them.

David Deibel stated they needed to be careful about that because under the Civil Service Rules department directors perform the annual evaluations. The department directors can take input from the Board on how staff is performing but the Board needed to avoid making policies that could conflict with the civil service rules.

Mr. O'Hare asked if Board evaluations of TSRS staff could be written into the Code.

Mr. Deibel answered the Civil Service Rules are modified by the Civil Service Commission only.

Ms. Langford answered it could only be added to the Code if TSRS staff was removed from civil service to appointed positions because then they would no longer be evaluated by the Finance Department and Human Resources.

Mr. O'Hare stated he would like to see the Chairman vote on every issue.

Mr. Deibel answered he had advised Chairman Fleming that he need only vote to provide a deciding vote. He said the Chair's vote only makes a difference as a tie breaker, and gave the example of how the Chairman's vote not would have affected the disability application of Pete Scalzo, regardless of how he voted. His advice to Chairman Fleming was that under the current procedural rules the Chair will often only vote in cases of a tie breaker and otherwise his vote has no actual impact on the outcome.

Mr. O'Hare asked if that could be documented in the governance policies.

Ms. Langford answered yes they could add it as a part of the Board service provisions.

Mr. O'Hare stated he thought one of the powers granted to the City Finance Director listed should include holding the TSRS funds in a separate trust account.

Ms. Langford answered this was fair because it was on her Code modification list because the trust concept is used but it is not specified where and what the trust is. Under the IRS TSRS is required to have a Trust and that could be explained more clearly in the Code. She advised that the Board's suggestions could be submitted to her via email; she would make today's revisions, a change suggested by Kevin Larson on the conflicts policy, and bring a clean version back to the Board for review.

Michael Coffey referenced page 5, item 15, Duty to Invest Prudently. The Board must invest the TSRS assets prudently and productively, in a manner consistent with portfolio management theory. He asked for clarification because portfolio management theory was not a fixed and unchanging body of knowledge; it is an ever evolving notion of how to invest prudently.

Ms. Langford explained in the Board's context they have used portfolio management theory language to indicate investing the trust as a whole, as an entire portfolio instead of focusing on one investment or investment sector.

Chairman Fleming stated this language was added when TSRS was trying to determine whether they were required to follow or ignore advice from the City Council on investing the TSRS fund, and gave examples of when the Board and the City Council did not agree on investments.

Ms. Langford said when they rewrote the Code in 2009, portfolio management theory wording was discussed because they were looking at uniform guidelines as far as best practices and managing the entire portfolio as opposed to being reactive to a single industry sector or segment.

3. Fiduciary Responsibility Training Refresher

Catherine Langford said training is done on an annual basis to keep the Board up to date on the fiduciary duties and to make sure that any new members have gone through the training session. Typically the training is done at the Board retreat in the fall but the October 31, 2014 agenda did not allow for the training at that time. In terms of the Code provisions that govern the Board there is a requirement that the Board take all necessary steps to run the system appropriately and the regular training falls within that requirement. The fiduciary role itself affects everything the Board does in terms of administration of the system and investing the plan assets. When Board actions are subject to the prudent fiduciary duty Board members are required to act as someone who is familiar with retirement plan matters would act, and they are required to have the education necessary to fulfill the responsibilities on a relatively high level. In terms of individual fiduciary duties it is important to question anything unfamiliar or uncomfortable in order to obtain the requisite information to satisfy those questions and increase individual knowledge. A prudent person is educated in the subject matter and looks at all available alternatives. They do not always make the right decision, but they go through a process to make a reasonable educated decision. A settlor is a person or entity who establishes a trust. Settlor functions in the retirement context include establishing, designing, amending, and terminating the pension plan. In the governance policies the Mayor and Council are responsible for the settlor functions, the Board can make recommendations but ultimately the decisions have to be made by the City and are not made under a fiduciary standard. When the City is performing a settlor function they can act in the best interest of the City. The fiduciary is the entity entrusted with the management of the settlor's trust. The primary fiduciary duties are to administer the system as it is written and in accordance with the applicable law. In terms of this system the primary governing law is the Tucson City Code (Code), the Arizona State Law, and the Internal Revenue Code because there are tax advantages tied to this system. In some cases the same individual may serve in a fiduciary role and a settlor role, it is important to understand what role they are acting in when certain decisions are made, for example the Mayor and Council could decide to cut employer contributions to the system if that was in the City's best interest; the Board as a fiduciary would never recommend that because the fiduciary will always act in the interest of the system, members, and beneficiaries. The Board's primary fiduciary duties can be divided into 3 categories: duty of prudence and duty to exercise due care, duty of loyalty and duty to act impartially, in good faith, and duty to comply with applicable law. This system is not subject to the Employee Retirement Income Security Act of 1974 (ERISA) which is the 2nd federal statute that typically governs pension plans. Governmental and public plans are not subject to ERISA.

John O'Hare asked if a court would take ERISA standards into consideration even though TSRS is not bound by them.

Ms. Langford answered that ERISA was held as the best practice in many cases because that is where all of the case law has been developed, but they are at a point where there is a significant body of law developing in the public plan context. She believes the courts will be most likely to look to ERISA when there is nothing specific available for public plan issues. Fiduciary duties are consistent with the ERISA fiduciary duties so there is some carry over. The duty of prudence generally means the prudent person standard discussed earlier, and it requires the board to exercise care and diligence in following governing terms, making investment selections, and hiring providers. A primary duty of the Board is to ensure the trust is productively invested, meaning a prudent investment process is utilized to make all attempts to invest the trust productively. It does not require the TSRS trust to earn money when the entire market is down, but it has to be reasonable and appropriate when compared to the investment markets. Prudent process means going through the steps to show that the Board's decisions are reasonable, an example of this would be the work Mr. Bentkowski puts into selecting providers and making arrangements for them to meet with the Board, going through the process and being actively involved during those presentations.

Allan Bentkowski said some people favor an annual review where the investment manager comes and addresses the Board in person. He asked if there was a standard for how often the Board should meet with the investment managers.

Ms. Langford said there was no standard; there are many plans that never see the investment managers in person, there are other plans that have an investment committee that meets with the managers and report to the full Board afterward. It is a time management function; paper review is fine as long as it is an active and involved process.

Mr. O'Hare pointed out that of the two investment managers that presented to the Board at the March 26, 2015 meeting, one sent a portfolio manager and the other sent a sales representative. He thought it would be beneficial if TSRS insisted on a portfolio manager attending the annual reviews instead of sales staff.

Ms. Langford thought a big advantage to in person reviews was the education on the sector represented by the portfolio, by the portfolio manager, because she did not think that was provided on paper, and it deepens the Board's understanding of why they are invested in those sectors. In terms of the overall investment picture it is important to remember in this type of system any funds that are not derived through investments have to be made up in contributions. The success of the investments directly impacts the required contributions going forward. Prudent administration requires diligence in terms of process, monitoring, interviewing and appropriately selecting service providers, and documentation of the decision making process. The Board owes the duty of loyalty to TSRS members and beneficiaries. The duty of loyalty is also a tax compliance requirement under the Internal Revenue Code as the exclusive benefit rule, which means for tax purposes the trust has to benefit the members and beneficiaries exclusively, as opposed to benefiting the Board, individual members of the Board, or the City. Loyalty is the fiduciary duty that gives rise to all of the Board's conversations about conflicts of interest. It is important to remember when making a decision that it must be in the best interest of the fund, members, and beneficiaries. Sometimes it is difficult for a Board member to see their own individual conflict. In these cases it is appropriate for the Board as a whole to say that for a particular decision it may not be appropriate for certain Board members to vote because the decision will affect the board member outside of the meeting. There is nothing wrong with this and it should not be viewed as a personal attack because ultimately the goal is to make a decision that is impartial and not subject to challenge because of a conflict. Delegations are part of administering the system appropriately. The Board has delegations in place to the administrator, Mr. Bentkowski on the investment side, and various delegations to outside service providers. This is necessary because it is impossible for the Board to perform the tasks required for day to day operations. The Board has to understand and remember the fiduciary responsibility can be shared but never delegated. When staff performs benefit calculations, preparing retirement paperwork, and assembling disability applications the Board bears responsibility for all those processes, and if they see something considered unreasonable in terms of delay or the manner in which it is processed there is an obligation for the Board to address the issue.

Mr. O'Hare asked about the fiduciary duty of the people the Board has delegated tasks to, such as the actuary consultant, investment managers, and legal staff.

Ms. Langford answered some of the service providers have fiduciary duties and some do not. If the Board wants to know whether a service provider is a fiduciary they have to determine whether they have discretion to act in a way that affects the systems assets. She said for the most part she did not have discretion, she is asked questions and gives answers but ultimately she does not make decisions. This is generally true with the actuary as well. The investment managers are given a certain amount of control over the assets that are placed with them and so they invest on a fiduciary basis.

Chairman Fleming clarified that Ms. Langford and the actuary may have fiduciary duties to the Board.

Ms. Langford explained that her duties to the Board and to the City are different from her duties to the members and beneficiaries. She added some information on what the industry is looking at in terms of good fiduciary governance for public plans. There was a lot of activity in this area in 2010 and 2011, in response to the market declines when everyone was looking at the funding status of public plans. The Government Finance Officers Association (GFOA) put out a statement of the fiduciary duties of loyalty, care, and prudence. In terms of GFOAs best practices they recommend adopting and maintaining written governance manual. When the governance policies were drafted they went through the GFOA recommendations and captured the applicable points in the governance manual and Code revisions. In terms of the size of the governing board GFOA recommends between 7 and 13 members depending on the complexity of the system. Ms. Langford said she believed this Board was on the appropriately small end of that recommendation, but she did recommend the Board consider recommending the addition of another independent member or other adjustments to membership. Industry experts recommend the Board consider the individual skills brought into the collective by each member, how they contribute to the Board dynamic, and utilize those strengths. For example Curry Hale could be more involved in the disability application process because he is more knowledgeable regarding accommodations. The Board should consider how they can use the skills individual members bring to the group for more than just making decisions, and whether these unique qualifications can be used to advance the process and make for a more active board. The GFOA recommendations for governance policies include a code of ethics covering loyalty, decision making, personal conduct and relationships with others, succession planning for transition of Board membership and Board leadership, investment policy for investing and safeguarding assets, policies regarding professional service providers and contractual arrangements, and procedures to monitor Board policies. Succession planning is not something the Board has addressed because membership changes in accordance with the Code schedule, but it is something that could be worked into the Code revisions. Professional service providers and contractual arrangements is not an area they have focused a lot of documentation on, though there has been a lot of discussion on conflicts. The International Foundation of Employee Benefit Plans (IFEP) has a slightly different understanding of governance issues than the domestic community. IFEP recommendations include disclosure of how and if the Board's investment policies take into account any social or governance issues, separation of plan administration from the more strategic and oversight functions, and focus on qualifications of individual Board members as well as collective competence of the entire Board.

Michael Coffey asked if the IFEP recommendations were for public or private retirement systems.

Ms. Langford answered the IFEP recommendations were for both public and private systems. The National Conference on Public Employee Retirement Plans has determined that effective plan governance alone, independent of all other factors can improve investment returns by up to 2.4% annually. Fiduciary training and good governance reduce risk; and communication between the Board, members, and City help with the governance process and risk reduction.

4. Discussion of Potential TSRS Plan Document Revisions

This item was taken out of order. It was considered after item D1.

5. Discussion of Renewal Process for IRS Determination Letter for TSRS

This item was taken out of order. It was considered after item D4.

6. Board member resignation – Eric Kay, Timeline for Replacement

Dennis Woodrich explained that Eric Kay separated from employment with the City of Tucson and has submitted a letter of resignation, leaving a vacancy on the Board.

Chairman Fleming asked if an election was necessary.

David Deibel answered an appointment would be made to finish the current term and the appointment could be made by any current member of the Board. Typically a notice is sent stating there is a vacancy and providing any interested parties with contact information.

Allan Bentkowski said Michael Hermanson may have a list of interested parties from when the last election was held.

John O'Hare asked if the appointee had to be an active member.

Mr. Deibel answered yes.

Curry Hale explained that the appointee had to be an active member because Tucson Code §22-44(b) states that there have to be 2 contributing members on the Board.

E. **Articles for Board Member Education / Discussion**

1. IAPC Report and Response on TSRS

Silvia Amparano said she would forward the final IAPC report to the Board. The IAPC sent a report to Mayor and Council and there are still plans to have another committee look at alternatives to defined benefit plans.

Catherine Langford told the Board they should consider whether they should send Mayor and Council a response to the report.

2. Anatomy and Physiology 101 for Attorneys (June 12, 2015 one day seminar in Tucson, featuring Scott Krasner as a speaker)

F. **Call to Audience** – None heard.

G. **Future Agenda Items**

Chairman Fleming requested a discussion on potential appointees, including any lists the plan administrator may have of interested parties, to fill the vacancy left by the resignation of Eric Kay be added to the agenda for the meeting to be held on May 28, 2015.

David Deibel requested the attorney review of securities litigation be added to the agenda for the meeting to be held on May 28, 2015.

Chairman Fleming requested the final IAPC report be added to the agenda for the meeting to be held on May 28, 2015 for discussion and to decide whether the Board should respond.

H. **Adjournment** – 10:46 AM.

Approved:

Fleming	5/28/15		05.28.15
Robert Fleming Chairman of the Board	Date	Michael Hermanson Plan Administrator	Date