

**From:** Paul Rankin paul.s.rankin@gmail.com  
**Subject:** Fwd: Request To Address Implementation Deficiencies  
**Date:** April 3, 2024 at 8:47 AM  
**To:** Deborah Spaulding DSpaulding@ebparks.org, Monica Alvarez-Selles MASelles@ebparks.org  
**Bcc:** Peter Volin pvolin@pacbell.net



Deborah and Monica

I was recently made aware that there is a Deferred Compensation Advisory Committee at EBRPD. I could not locate e-mail contact information on the website for the membership.

As I believe the members of this Committee would be "Interested Parties", I am requesting that you share my communication with the entire Committee. I am not requesting that it be presented as part of a formal public agenda item. I am only seeking to have them aware of the issue as background information in their work as a Advisory Committee.

In the alternative, you may provide me with their e-mail addresses and I will forward the item directly.

Thank you for your assistance.

Paul Rankin

Begin forwarded message:

**From:** Paul Rankin <paul.s.rankin@gmail.com>  
**Subject:** Request To Address Implementation Deficiencies  
**Date:** April 2, 2024 at 4:19:45 PM PDT  
**To:** Sabrina Landreth <slandreth@ebparks.org>, Deborah Spaulding <DSpaulding@ebparks.org>  
**Cc:** Elizabeth Echols <eechols@ebparks.org>, Dee Rosario <DRosario@ebparks.org>, Dennis Waespi <dwaespi@ebparks.org>, Ellen Corbett <ecorbett@ebparks.org>, Olivia Sanwong <osanwong@ebparks.org>, John Mercurio <jmercurio@ebparks.org>, Colin Coffey <ccoffey@ebparks.org>, Robin <rankin5@comcast.net>

April 2, 2024

**To:** Ms. Sabrina Landreth, General Manager  
Ms. Deborah Spaulding, AGM Financial Services I CFO/Controller  
East Bay Regional Park District

**Cc:** Each Member of the Board of Directors – EBRPD  
Robin Rankin

**Bcc:** Interested Parties

As you are aware the District Implementation of a change to Empower, as the administrator of employee contributions to a retirement savings plan has impacted me as a former District employee.

This e-mail provides:

- an overview of my experience
- a request for a refund of transaction / withdrawal fees; and
- a detailed explanation of difficulties encountered during the transition

To be thorough and provide specific details a "chronology" has been inserted at the end of this e-mail. It goes into further depth and provides specific situations where I believe the District disregarded the interest of the plan participants, which should be an essential role for a Plan Sponsor. My apologies as adding complete documentation has resulted in a communication that is longer than what would typically be desirable.

As you are aware, in October 2023 the Board of Directors upon the recommendation of its Staff chose to discontinue the relationship with MissionSquare that had existed for over 40

years. The structure and focus of the firm selected are significantly different from what plan participants have known for decades. MissionSquare exists as a non-profit independent financial corporation focused on service to public-sector retirement accounts. While Empower, is a for-profit corporate subsidiary of an insurance company conglomerate. Empower spends millions of dollars each year for things like naming rights at an NFL stadium and television advertising. Much different than the previous provider.

This was a significant change and former employees with funds in the plan should have been granted adequate time to evaluate how their individual funds were to be managed. Former employees have more options including withdrawal / rollover funds into an IRA at a different financial institution. Such a decision would only be prudent if granted adequate time and information.

I am requesting reimbursement from the District, for Empower imposed Withdrawal Transaction Fees in the amount of \$100 (\$50 for each request.) Further, I encourage the District to extend this same accommodation to any other former employees who may choose to take a similar action after having adequate time to consider options for their funds.

The following highlights are some of the key deficiencies I experienced during the District ("Plan Sponsor") led change in the Plan Administrator:

- Adequate time was not allowed for participants to make decisions (Despite a statement in a Board of Directors Report that it would be part of the implementation process.)
- Efforts to get information were unnecessarily difficult as a result of the District establishing an unrealistic deadline after notifying plan participants. (As adjusted for District holidays there were only 5 full business days from when I received the first notice of the change and when the lock-out period began.)
- After the Notice was received, neither the District or Empower took steps to promptly address requests for information.
- Complete information about the new plan and provider including all fees charged were not communicated before funds were moved to Empower.
- The change discontinued my access to no-fee Certified Financial Planner services, with inadequate time to diligently evaluate the options available.
- Add-on fees were encountered after the change such as \$15 for each Direct Deposit Transaction (Typically "direct deposit" is considered more secure and less costly than mailed checks, for entities making payments.)
- After my account was moved to Empower, my experience did not improve. For example: 1) I was provided inaccurate information on the timing of access to my funds. 2) Empower took 9 days to complete an internal transfer / conversion. (Funds were in control of Empower the entire time. The process involved withdrawing a stated amount from my "Empower Pre-tax" Funds and then re-depositing those funds in my "Empower Roth")

account.)

Had the District been more diligent with the implementation of the new provider, I would not have incurred the transfer fees. It should be noted that the requested reimbursement does not address any impacts from having the funds not invested for a period after the withdrawal. The Empower process required that I receive mailed checks from Empower and then I had to transmit the checks for deposit with my selected providers. No electronic transfer was available for my rollover.

I have spent considerable time to evaluate what is best for me. I realize other former employees may need resources to help them evaluate what is best for their situation. In order to offset impacts from the deficiencies noted, I support efforts to have the District engage independent assistance to former employees that have funds in the plan.

I appreciate your consideration of my request.

Paul S. Rankin  
Former CFO / Controller  
East Bay Regional Park District (1999-2002)  
E-Mail: [paul.s.rankin@gmail.com](mailto:paul.s.rankin@gmail.com)

#### **DETAILS / CHRONOLOGY FOLLOW:**

### **Chronological Detail of East Bay Regional Park District Deferred Compensation Plan Transition to Empower (As Experienced by Paul Rankin, Plan Participant)**

The following is intended to document and support the basis for my conclusion that the actions by the District were deficient. It also demonstrates that diligent efforts by the Plan Participant to avoid impacts from the District's actions.

#### **October 2023 – Board Approval Made Commitment to Plan Participants**

At the October 3, 2023, meeting of the Board of Directors, the Board took action upon a recommendation from its Executive Staff to initiate a change in Plan Administrators. I do not contest that the District had the authority to make this change. However, they did have a responsibility to carry out the change in a responsible manner.

The report supporting the action by the Board of Directors to enter into an agreement with Empower included an unfulfilled commitment stating: **“During the transition period, the Park District will provide opportunities for plan participants to learn about Empower and its resources”**.

#### **February 6, 2024 – 2<sup>nd</sup> Board Action (No Communication To Participants)**

The Board of Directors took an additional implementing action at their Board Meeting on February 6, 2024. Among the actions taken by the Board was approval of an Investment Policy and information related to the specific investments that funds would transition to under the new Plan Administrator. It also identified that participants would be prohibited from making changes in their current accounts beginning February 21, 2024.

The information did not state a specific time when the restriction would end. It was stated as “Expected to end the week of March 10, 2024.” And no updated information was provided directly to the account holders once it was lifted.

### **February 10, 2024 – 1<sup>st</sup> Notice To Me As A Plan Participant**

None of the prior actions or information was shared with me as a plan participant until I received a mailed notice from Empower on Saturday, February 10, 2024. This was over four months after the initial action by the Board of Directors. I was subsequently advised that the District informed Retiree Association representatives. I am not a retiree and reliance on a third party to disseminate important financial information seems contrary to the District role as the Plan Sponsor. The District apparently made no effort to obtain participant contact information from MissionSquare in order to provide a timely notice.

### **February 11, 2024 E-Mail To General Manager (A Sunday and 2/12 District Holiday)**

I had personally consolidated significant retirement funds saved throughout my career into my East Bay Regional Park District Plan. Upon receiving the notice from Empower I sent an e-mail to Sabrina Landreth, General Manager on February 11, 2024. I noted the complexities of the decisions account holders would need to make and that inadequate information was provided. For the plan participant, making any decision was further complicated by the fact that all retirement assets would be unavailable for withdrawal or transactions beginning at 1:00 pm on February 21, 2024. The title of the e-mail "TIME SENSITIVE DEFERRED COMP PLAN CHANGES", was intended to highlight the urgency of a response. I also requested that the District delay the transition to the new provider, to allow plan participants reasonable and adequate time to make decisions about their personal finances.

### **February 14, 2024 – Lacking A Response Participant Followed Up**

One would have hoped that given the already compressed timeline that District Staff would immediately engage in communication with plan participants who have important decisions to make. That was not my experience. I waited until February 14, 2024, and resent the e-mail and requested to confirm that it was received. That triggered an e-mail response from Deborah Spaulding, CFO/Controller. I was informed that the District could not delay and that she would be available to speak with me. It was also indicated that someone from Empower would be following up.

After I spoke with Ms. Spaulding, I drafted an e-mail outlining in writing some specific questions related to: MissionSquare Plus Fund Investment which was being treated different than other funds in the transition; Questions about the ability to do a Roth Conversion in the new plan; Questions about the availability of Certified Financial Planning services with the new plan; and Questions about transaction and other fees. The e-mail was sent at about 5:00 p.m. on February 14, 2024.

### **February 15, 2024 (Late Afternoon) – Empower Rep Advises Needs A Supervisor To Answer Questions**

It was a full day later that I was contacted by Empower. I reported back to Ms. Spaulding that the contact did not have my questions, which I forwarded while on the call. In addition, the Empower contact person was unable to address the questions and I was informed she would have a Supervisor try and conduct contact me. What happened to the October Board report commitment to get plan participants information? Meanwhile, the District imposed deadline for transactions / changes with MissionSquare got closer every day without complete information provided.

At 6:30 p.m. on February 15, 2024, I sent both Ms. Spaulding and the Empower person I spoke with additional questions that had come up as I tried to research my options. Ms. Spaulding replied later that evening which was appreciated.

### **February 16, 2024 – No Response Yet From Empower – Contacted District CFO On Status**

I waited until 3:00 pm on Friday, February 16, 2024 before following up. Important to the

I waited until 3:00 pm on Friday, February 16, 2024 before following up. Important to the timing was the fact that Monday was a federal holiday, and the account lock began two days after that. Making decisions about my retirement savings was not limited to just having questions answered by Empower and the District. I also needed time to schedule and consult with resources I use to evaluate what is the best decision for my wife and I. This is a lifetime of savings, and we make decisions collectively as it has the potential to impact our standard of living for years to come.

Within the hour of when I inquired about the status of being contacted, I finally received a call from Empower. We talked through the questions I had at that time. A few questions were left unanswered with an expectation that Empower would follow-up. Following the call, I took additional steps to try and assist with obtaining information. I prepared a single document that had all the questions; answers to date; and outstanding items in red.

### **February 16, 2024 – My Communication Included General Mgr / Seeking Action At the Highest Level To Address What Was An Inadequate Implementation**

Given the frustration of such a pitiful response to date I again included the General Manager in my communication. In part I expressed: "...I feel it is appropriate to state again that it is unfortunate that Plan Participants were not provided a reasonable time to get information and consider how best to proceed on an individual basis. ...I am also puzzled by the lack of responsiveness I encountered...Having to initiate contact multiple times to nudge any response did not make me feel valued nor add confidence to how the process is administered." This communication also included specific requests from Empower. No response was provided by the District representatives.

### **February 20, 2024 – Brought the Issue To Board Meeting – Public Comments**

Thinking about this over the weekend I informed the General Manager of my decision to attend the Board Meeting on February 20, 2024. I knew that the only opportunity to address the item would be under oral communications, which does not allow for action on an item. In addition to summary oral comments, after the meeting I provided my complete written comments to the entire Board of Directors via e-mail. My hope was that the Board Members in their fiduciary role might direct Staff to look into the matter. Instead, the transition continued in the same fashion, without regard or proper support of plan participants trying to make important decisions.

### **February 27, 2024 – District Staff Responded To Comments To Board**

The CFO did respond to my February 20, 2024, communication to the Board of Directors. It was explained that the communication effort to date used the Retiree Association and Retiree Benefit website. It also acknowledged that the approach was not direct communication with plan participants. Further, an accurate roster of plan participants would have included people such as me who are not retirees. Acknowledgement of the deficiency did little to address the impact of the actions for which the District was responsible.

### **Empower Provided Additional Information Too Late For Reasonable Consideration**

Less than 24 hours before the account lock-out deadline, Empower provided additional information in the afternoon of February 20, 2024, which partially addressed outstanding questions. Their final response was on February 23, 2024, after the deadline and the account was in a locked status.

### **March 5, 2024 District Notifies Participants of 3/27/24 Informational Session**

A mailed memo dated March 5, 2024, from the EBRPD Benefits Manager explained that the plan remained in a restrictive mode without access to accounts. It explained that once the transition was complete participants could go to the Empower website and enroll for access to their account. It also announced that there would be a virtual info session with Empower

representatives on March 27, 2024 (175 days after the Board of Directors and public were told there would be information shared).

### **March 14, 2024 Contacted Empower To Try And Initiate Transaction – Access Not Available**

As I had intended to complete certain transactions that I had been planning before the transition to Empower, I did monitor access to the Empower website. I was able to access the Empower website on March 14, 2024. However, to undertake a transaction the website instructed me to call the Empower Telephone Service Center. After calling, I was advised that the plan remains in a restricted status and after checking with others the representative told me I should call next week (Week of March 18) to conduct transactions. I advised EBRPD of this via e-mail after close of business on March 14, 2024.

### **March 15, 2024 – CFO Advises Access Is Available (After close of 3/15 Trading Period)**

At 3:30 pm Friday, March 15, 2024, I got a response from the CFO indicating that the information the Empower Call Center provided the prior morning was incorrect. Access to accounts were available after I spoke with Empower. EBRPD informed its internal employees and posted information on the EBRPD Benefits website. By now the District Staff should have understood that not all plan participants are retirees. I, as well as other plan participants were left uninformed.

The delay in responding with this information meant that any market transactions initiated would not occur until Monday, March 18, 2024, thereby exceeding the previous statement that access to funds would be available the week of March 10<sup>th</sup>.

### **March 18 – March 28 Processing Time For Internal Transfer / Conversion**

On Monday March 18, 2024, I initiated with Empower an In-Plan Roth Conversion. This involves withdrawal of a specific amount of funds from my “Empower Pre-Tax” account; and redeposit of those same funds into my existing “Empower Roth” Tax Free Account. The funds are held under the control the entire time by Empower. Additional tax reporting will occur after the end of the year.

Consistent with this entire experience it was left to the plan participant to follow-up on the completion of the conversion of funds. At 9:00 a.m. on Friday March 22, 2024, I learned from Empower that they were awaiting approval from the Employer. I advised the District CFO by e-mail of this issue. Monday March 25, 2024, I sent another e-mail to the CFO as the transaction still did not show as complete. Subsequently she responded that the Staff had completed the approval. This did not conclude the transfer process. It took Empower until the morning of March 28, 2024, for the complete conversion to show in my account. This transaction took until the 10<sup>th</sup> day after I had submitted the paperwork.

### **Slow Process And Fees For Direct Deposit Transactions - Undisclosed**

I had also planned to make a taxable withdrawal from my account. I realized that I would need to provide banking information to obtain electronic deposit of the requested funds. I initiated the process of entering my bank information on March 14, 2024, via the Empower website. It was only once it was completed that I noted it would not be available for 15 days. Empower explained that they impose a mandatory 15 day hold unless your financial institution is large bank. Their processes do not seem very modern if it takes them two weeks to validate an account.

Later in the process I learned the Empower fee structure extracts \$15.00 for each Direct Deposit. Mailed checks are issued at no charge, however, you risk delay or delivery issues. Most business enterprises encourage direct deposit and because of the lower cost do not

charge the participant.

**March 28, 2024 – Initiated A Full Roll-over / Withdrawal of My Funds**

Given this experience and the performance by both EBRPD and Empower I initiated a roll-over to other institutions, with which I have experienced customer service that far exceeds the experience of the last two months. I will acknowledge that MissionSquare representatives continued to be responsive in a timely and business-like manner even after my funds moved to Empower.