

CITY OF FLINT EMPLOYEES' RETIREMENT SYSTEM
Board of Trustees Regular Meeting Minutes
Tuesday, November 15, 2011

A regular meeting of the Board of Trustees of the City of Flint Employees' Retirement System was held on **Tuesday, November 15, 2011**, at 1:00 p.m. in the Committee-of-the-Whole Room, 3rd Floor, City Council Chambers, at City Hall.

TRUSTEES & ALTERNATES Denise Bingaman, Mary Bland, Bryan Bond, Debra Bridges,
Robert Erlenbeck, Sherry Murphy, Sheldon Neeley (1:26),
Cass Wisniewski

ABSENT Douglas Bingaman, Gregory Eason, Duane Kelley, Scott Kincaid,
Mark Kovach, Maryann Malloy, Patricia Ramirez, Mark Stratman, Michael
Townsend

ALSO PRESENT Harland Abraham, Northern Trust (Custodial Bank)
Christopher Kuhn, Gray & Company (Consultant)
I'Lanta Robbins, Assistant City Attorney/Attorney for Retirement Board
Suzi Bye, Retirement & Benefits Manager
Julie Sadler, Staff Assistant to FERS
Michael VanOverbeke, Special Counsel

1. SELECT ACTING CHAIRPERSON / CHAIR CALLS THE MEETING TO ORDER

In the absence of a Chair, Robert Erlenbeck called the meeting to order at 1:10 p.m. and reported to the Board that Mr. Townsend (Acting Vice Chair) was no longer employed by the City of Flint and Mr. Bingaman (Acting Chair) was retiring; therefore, an Acting Chair for the meeting needed to be appointed. Discussion followed.

A motion was made by Sherry Murphy, supported by Bryan Bond, to appoint Bob Erlenbeck as Acting Chair for this meeting. The motion carried unanimously.

2. ROLL CALL (Attendance)

Roll was called and members were present or absent as recorded above.

3. MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE BOARD

There were no members of the public present who wished to address the Board.

4. APPROVAL OF AGENDA

A motion was made by Cass Wisniewski, supported by Sherry Murphy, to approve the agenda as presented at the meeting. The motion carried unanimously.

5. APPOINTMENT OF PERMANENT BOARD CHAIR & VICE CHAIR

A motion was made by Cass Wisniewski, supported by Sherry Murphy, to appoint Bob Erlenbeck as Interim Chair. The motion carried unanimously.

6. APPROVAL OF MINUTES – DRAFTS (TABLED)

- ◆ *October 18, 2011 - Regular Board Meeting*
- ◆ *October 18, 2011 - Special Board Meeting - Hearing for David Plewes*

7. APPROVAL OF APPLICATIONS FOR VOLUNTARY RETIREMENT – *See Attached*

Moved/Resolved by Cass Wisniewski, supported by Bryan Bond, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for the Applications for Voluntary Retirement for Terry Cooper, Clara Echols, Raul Garcia, Harlon Green, Andrew Pardee and Jerry Tolbert be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension, as indicated, for life or until such chosen option shall require. Motion carried unanimously.

8. APPROVAL OF APPLICATIONS FOR DEFERRED RETIREMENT – *See Attached*

A Motion to Approve the Applications for Deferred Retirement for Kenneth Engel, Tonja Petrella and Thomas A. Snyder was made by Cass Wisniewski and supported by Sherry Murphy. The motion carried unanimously.

9. APPROVAL OF DISABILITY PENSIONS – *None*

10. APPROVAL OF CHANGES TO PENSIONS PREVIOUSLY REPORTED – *None*

11. APPROVAL OF OPTIONS PICKED BY DEFERRED RETIREES – See Attached

A Motion to Approve the Option Picked by Deferred Retiree Lacrelle Muse was made by Sherry Murphy and supported by Debra Bridges. The motion carried unanimously.

12. INFORMATIONAL CHANGES TO PENSIONS – None

13. UPCOMING CONFERENCES - None

(Placed on file in the Secretary's office and available for Board review.)

14. COMMUNICATIONS RECEIVED *(Placed on file in the Secretary's office and available for Board review or copy may be requested; *if noted, copy included with Agenda.)*

14.1 **American Core Realty Fund**, Confirmation of Receipt of Wire Transfer for Capital Call - \$1,120,000, October 3, 2011.

14.2 **Habeeb Ghattas**, Letter to Board re: Request for Information, October 27, 2011. *

14.3 **Gabriel Roeder Smith & Co.**, Flint Police Sgts. Assoc. Service Purchase Supplemental Valuation, November 11, 2011. *

15. COMMUNICATIONS SENT *(Placed on file in the Secretary's office and available for Board review or copy may be requested; *if noted, copy included with Agenda.)*

15.1 Bingaman/Townsend, Letter to **The Northern Trust Company** (Custodian) re: Re-balancing FERS' Portfolio/Replenishing Drawdown Account, October 20, 2011.

15.2 Bingaman/Townsend, Letter to **Northern Trust Investments** re: Sale of Securities and Transfer to Drawdown Account, October 20, 2011.

15.3 Bingaman/Townsend, Letter to **J.P. Morgan Asset Management** re: Sale of Securities and Transfer to FERS' Northern Trust Drawdown Account, October 20, 2011.

15.4 Bingaman/Townsend, Letter to **The Northern Trust Company** re: Wire Transfer for Payment of November 1, 2011 Pension Payroll, October 20, 2011.

- 16. REPORTS RECEIVED** (Placed on file in the Secretary’s office and available for Board review or copy may be requested; **if noted, copy included with Agenda packets.*)
- 16.1 **American Realty Advisors**, Recent Investments - October 2011.
- 16.2 **BNY ConvergeEx**, Commission Recapture Services - January 1-September 30, 2011.
- 16.3 **CB Richard Ellis Investors**, Investor Monthly Summary Report for FERS - September 2011.
- 16.4 **Dodge & Cox**, FERS Investment Quarterly Report & Performance Summary - September 2011.
- 16.5 **Globalt Investments**, FERS Quarterly Report - September 30, 2011.
- 16.6 **Keeley Asset Management Corp.**, Small Cap Value Investment Strategy Quarterly Report for FERS - September 30, 2011.
- 16.7 **LSV Asset Management**, FERS International Large Cap Value - Investment Report - 3rd Quarter 2011.
- 16.8 **Piedmont Investment Advisors**, FERS 3rd Quarter Performance Reports - 2011.
- 16.9 **Wentworth, Hauser & Violich**, FERS 3rd Quarter Investment Portfolio Appraisal.
- 16.10 **American Realty Advisors**, FERS American Core Realty Fund Account - Report for Quarter Ended September 30, 2011.
- 16.11 **ICON Advisers, Inc.**, FERS Portfolio Activity - Quarter Ended September 30, 2011.

A motion was made by Cass Wisniewski, supported by Sherry Murphy, to receive and place on file all documents listed in Agenda Item #s 13, 14, 15, 16. (Certain items were discussed where appropriate in the Agenda.) Motion carried unanimously.

17. STATISTICAL REPORT OF BENEFITS *(for information only)*

	<u>2009</u>	<u>2010</u>	<u>2011 YTD</u>
Number Retired	2,849	2,880	2,883
Payroll	\$64,959,885	\$63,205,866	\$68,000,000 <i>appr</i>

18. GRAY & COMPANY – CONSULTANT’S REPORT/RECOMMENDATIONS

- ◆ **Schedule of Asset Classes, Manager Allocation & Re-Balancing** – Chris Kuhn reviewed. Discussion followed.
- ◆ **Third Quarter Performance Report** – Chris Kuhn reviewed. Discussion followed.
- ◆ **Market Update/Issues** - Discussion
- ◆ **Proxy Voting** - *pending with Ivory Day*
- ◆ **Rebalancing - \$23,574,473** - *Transferred October 20 - from cash holdings to drawdown account (#15.1, 15.2, 15.3)*
- ◆ **New Real Estate Managers** – *status*
 - **Mayfield Gentry** - *contract pending raising of capital*
 - **American Realty Advisors** - *\$8,000,000 Investment*
- *Capital Calls: \$4,800,000 - 6/28/11 & \$1,120,000 - 10/3/11 (Ref #14.1)*

19. APPROVAL OF THE DECEMBER 1, 2011 PENSION PAYROLL TRANSFER

A motion was made by Sherry Murphy, supported by Cass Wisniewski, to approve a transfer of \$4,600,000 for payment of the December 1, 2011 pension payroll (total estimated payroll - \$5,281,501), from the Northern Trust Flint – Drawdown Account #26-19617 to Citizens Bank. The motion carried unanimously.

20. ACTUARIAL ISSUES PENDING

- ◆ **Gabriel, Roeder, Smith & Co. – No Report**
 - **Fiscal Year 2010 Actuarial Valuation** – *All data provided to GRS.*
 - **Economic Assumptions**
 - **Demographic Assumptions**
 - **FERS/MERS Transfer Procedures** – *Attorney meeting scheduled.*
 - **GRS Software Services** - *Agreement approved.*

Sheldon Neeley left the meeting.

21. LEGAL COUNSEL UPDATES – I'Lanta Robbins, Attorney

- ◆ **Take Two Interactive Lawsuit** – *Securities Fraud Loss \$176,505 –Settlement pending*
- ◆ **Capital BidCo** – An investigative request letter to the State is being drafted.
- ◆ **Pension Calculation Errors Lawsuits** – Additional hearing dates are needed - hearings pending/to be scheduled with attorneys:
 - **Sheila Burns** (5 “free” years in FAC) - November 15th Hearing Postponed (lack of quorum)
 - **William O. Kelly III** (FAC issues)
 - **Gregory Doerr** (FAC issues)
 - **Susan Jarema** (purchase of time)
- ◆ **FAC Calculation Policy** – Draft to be resubmitted to the Retirement Office for review
- ◆ **Referral - State Emergency Manager Law – Attorney Michael VanOverbeke, Special Counsel**

Attorney VanOverbeke gave an overview of the Emergency Manager laws and answered questions regarding their potential effects on the Board and the Retirement System. The Governor of the State of Michigan has announced that he will be appointing an Emergency Manager for the City of Flint, in accordance with Public Act 4 of 2011, which broadens the powers of an EM from the State’s Public Act 72 (enacted in the 1990s). These additional powers include authority over retirement systems. An EM has the ability to remove and replace trustees (with the approval of the State Treasurer) and/or appoint himself to the Board to replace a trustee (ex.: City Administrator or City Council member) or become the sole trustee. However, the EM must serve as a true fiduciary, making decisions in the best interests of all plan members and beneficiaries. If the funding level is below 80%, he can also recommend to the State that the System be merged into another retirement system. If below 80% and the Treasurer approves his recommendations, an EM can fire consultants, banks or money managers, change the asset allocation, and/or adopt a new investment policy. Discussion followed.

Attorney VanOverbeke noted that Article 9, Section 24 (1963) of the State Constitution protects accrued financial benefits (pensions) from diminishing or impairment. The EM must ensure that retirees get the pension they are entitled to. Health care is protected under Article 1, Section 10, from *substantial impairment*, according to a Court of Appeals ruling. The EM must comply with PA 314 and must fund normal costs of providing pensions, as well as a portion of the unfunded accrued liability over the 30 year current amortization.

Mr. VanOverbeke also discussed administrative hearing procedures with the Board, noting that a Committee can be appointed to conduct the hearings and make recommendations to the Board, rather than having the entire Board attend the hearings. He emphasized the legal importance of granting due process and holding hearings, when requested, in as timely a manner as possible, which is part of Trustees' fiduciary responsibility.

Regarding the Freedom of Information Act request from Habeeb Ghattas, Attorney for David Plewes, Attorney VanOverbeke will discuss the Board's response with Attorneys Robbins and Lawson. FOIA law requires release of public information, regardless of the purpose of the request, unless certain exemptions apply; for example, Attorney-Client Privilege. Wage and pension information of public employees is public information; however, FOIA requests cannot be an unwarranted invasion of individuals' rights to privacy.

22. PROFESSIONAL SERVICES COMMITTEE

- ◆ **Cost Saving Measures**
 - **Pension Advice Mailing**
 - **Debit Cards, Direct Deposit, etc.**
 - **Pension payroll deductions & costs to administer - Letters sent (Ref #15.8-#15.13)**
 - **Retirement Self-Service Website www.cityofflint.com/finance/Retirement/retirement.asp**
- ◆ **Flint Housing Commission 2003 Job Eliminations - Deferred Retirees - Errors Found**
 - **David Gardin – Purchase of Generic Time**
 - **Ronda Moore - Purchase of Time/Cost of Purchase/Service Credits (Ref #14.1)**
- ◆ **Job Elimination Retirement Benefit funding options.**

22.1 DISABILITY RETIREMENT APPLICATIONS OUTSTANDING/PENDING

- ◆ **Reports/Recommendations**
- ◆ **Duty**
- ◆ **Non-Duty**
- ◆ **Responses received from Dr. Roth** – A report was received from Dr. Roth certifying Darren Chaddock, City-Local #1600, as totally and permanently disabled and recommending approval of a non-duty disability retirement.

A motion was made by Cass Wisniewski, supported by Bryan Bond, to concur with Dr. Roth's recommendation that Darren Chaddock is totally and permanently disabled and should be granted a non-duty disability retirement pension. The motion carried unanimously.

22.2 STATUS OF RETIREE SELECTION OF CORRECTION OPTION FOR OVERPAYMENT

- ◆ **David Plewes** (*service credits/FAC*) - *Hearing - October 18th - 2nd Hearing Session to be scheduled (Item #14.2)*

Attorney Robbins noted that there has been a problem getting a quorum so that hearings can be held. She will be working with plaintiffs' attorneys to schedule hearings, possibly more than one in a month until they are caught up. Discussion followed. Attorney VanOverbeke noted that the Board's fiduciary responsibilities include holding timely administrative hearings, when requested. He also noted that Trustees can only administer the Plan as negotiated and adopted by the Plan document / Ordinance; the Board does not have equitable jurisdiction (like the Courts) to make decisions on issues outside the scope of the Plan document provisions. He recommended that the administrative hearing guidelines be revised to allow a half hour limit on each side. Legal opinions could be submitted for prior review, and only a small amount of witness testimony should be needed to address issues within the Board's scope. The Board could choose to appoint a hearing officer or a committee to conduct hearings and make recommendations to the full Board. Judges can only overturn decisions if they are found to be arbitrary or capricious. Discussion followed. Attorneys Robbins and VanOverbeke will review current procedures and make recommendations.

23. FINANCE/INVESTMENT COMMITTEE - NO MEETING / NO REPORT

- ◆ **Financial Updates**
- ◆ **Pension System Budget/Revenues/Expenditures/Admin Costs**
- ◆ **IRS Tax Determination Letter** – *Pending w/IRS*
- ◆ **Private Equity Investments**
- ◆ **Independent Audit of FERS**

24. RETIREMENT ORDINANCE REVISION COMMITTEE (of-the-Whole)

- ◆ **Apply IRS Regulations for Beneficiaries** – *Legal, R. Erlenbeck, GRS*
- ◆ **IRS Changes for Tax Determination Letter** - *pending IRS approval of language recommended/submitted by Attorney Michael VanOverbeke*
- ◆ **Defined Contribution/Defined Benefit Change for Exempts** – *Attorney Robbins drafting final language for submission to City Council*
- ◆ **§35-31/31.1/32/32.1 Firefighters/Police Officers – Death in the Line of Duty / Death Pension Limitations – Surviving Spouses** – *Legal, Mark Stratman, Suzi Bye*

25. OTHER BOARD BUSINESS

- ◆ **Pending Michigan Legislation** – Attorney VanOverbeke distributed and reviewed a copy of proposed amendments to PA 314 currently under consideration.
 - ◆ **Public Act 314 (Pension Investment Act), Public Act 345 (Police & Fire Retirement Systems), Public Act 336 (Public Employees Retirement Act)**
- ◆ **Vacancies** (Ord. §35-8 & §35-10)
 - ◆ **Alternate for Cass Wisniewski** – *Pending appointment by Hurley President/CEO*
- ◆ **Michigan State Income Tax Changes for Pensions - Status Update**

The forms for the new State of Michigan income taxes were sent to retirees and many have been submitted to pension payroll. There is a default of a 4.35% State income tax deduction beginning January 1 if the forms are not filed with the City.

- ◆ **Flint Police Sgts Assoc. Service Purchase - GRS Supplemental Valuation (#14.3)**

Attorney VanOverbeke noted that a Supplemental Actuarial Analysis must be performed whenever any changes to a pension (individual or group) are proposed, with a copy provided to the decision-making body (Board of Trustees, City Council, etc.) *at least* seven days prior to a decision being made, so that the decision is an “informed decision.”

- ◆ **Board Meeting Schedule 2012 – Approval**

A motion was made by Debra Bridges, supported by Sherry Murphy, to approve the 2012 Schedule of Regular Retirement Board Meetings. Motion carried unanimously.

26. ADJOURNMENT

Upcoming Board Meetings:

Regular Board Meeting - Tuesday, December 20, 2011, 1:00 p.m.

A motion was made by Debra Bridges, and supported by Bryan Bond, to adjourn the meeting at 4:19 p.m. The motion carried unanimously.