

CITY OF FLINT EMPLOYEES' RETIREMENT SYSTEM

BOARD OF TRUSTEES REGULAR MEETING

A regular meeting of the Board of Trustees of the City of Flint Employees' Retirement System was held on Tuesday, May 18, 2004 in the New Committee-of-the-Whole Room, City Hall Council Chambers, third floor, with the following in attendance.

TRUSTEES &  
ALTERNATES Daniel Hall – Chairperson, Peter Dobrzeniecki, Darnell Earley,  
Robert Erlenbeck, James Goodin, Janice Kehoe, Sandra Kidd,  
Amy Lindman, Alvern Lock, Donald Phillips, Robert Rosenberger,  
Georgia Steinhoff, Cass Wisniewski

ABSENT Daniel Coffield, Mark Horrigan, Edward Taylor

ALSO PRESENT Habeeb Ghattas, Attorney for the Retirement Board  
Jeffrey Welch, Attorney for the Retirement Board  
Steven Spender, Special Counsel for the Retirement Board

1. CHAIRPERSON CALLS THE MEETING TO ORDER

Chairman Daniel Hall called the meeting to order at 1:10 p.m.

2. MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE BOARD

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

Chairman Daniel Hall asked for a motion to move Agenda Item #23, Legal Counsel Updates, forward in the Agenda.

A motion was made by Amy Lindman, and supported by Robert Rosenberger, to move Agenda Item #23, Legal Counsel Updates, forward in the Agenda in order to address that issue at this time.

Upon being put to a vote, the motion carried unanimously.

Chairman Dan Hall noted that special legal counsel, Steven Spender, was present to update the

Board on the recent decision by Judge Yuille regarding the Board v. Kurtz lawsuit, along with the Board's Attorneys, Habeeb Ghattas and Jeffrey Welch.

23. LEGAL COUNSEL UPDATES  
- Board v. Kurtz

Attorney Habeeb Ghattas reported that Judge Yuille had issued a decision this past week on the motion for preliminary injunction regarding the lawsuit filed by the Board on or about March 19, 2003. This lawsuit asked for a declaration of rights as to the authority of Edward J. Kurtz, the City's Emergency Financial Manager (EFM), relative to the authority and responsibilities of the Board of Trustees with regard to the operation of the Retirement System. An overview of Judge Yuille's ruling is as follows. Attorney Steven Spender was special counsel on behalf of the Board of Trustees and argued the case before Judge Yuille. He is available to answer the Board's questions.

- 1) The Judge ruled that the EFM is not authorized to issue directives to the Board of Trustees as to the Board's responsibilities to administer the retirement plan.
- 2) Judge Yuille rescinded Directive #16 regarding the Board's authority to enter into its own contracts only with the approval of the EFM.
- 3) Judge Yuille did not rescind: Directive #24, relating to the movement of the 731 Trust Fund to the General Fund of the City of Flint; Directive #35, relating to the 26/27 pay issue; Directive #44, directing the Director of Finance to suspend contributions to the Retirement System; Directive #52, regarding the 26/27 pay issue. These directives were not rescinded as the Court concluded that adequate remedies exist for resolution of these concerns. Essentially, the Judge concluded that injunctive relief is extraordinary relief and, to the extent that adequate remedies exist for the resolution of those issues by the parties, it would be imprudent for the Court to grant preliminary injunction.

The Court disagreed with the Board's argument that the Ordinance is pre-empted where in conflict with State Law. The argument put forth to the Court in this case, and in the case of the Board having the authority to hire its own counsel, is that the Ordinance is the Plan Document and the Board is obligated to comply with the Ordinance where not in conflict with provisions under State or Federal authority. The Judge disagreed with that argument in deciding that the Ordinance is not pre-empted where in conflict. The pre-emption issue may be resolved once the Court of Appeals renders a decision on the Board's Complaint for Declaratory Relief with regard to its authority under State Law to hire its own legal counsel. Depending on the specificity of the Court of Appeals' decision, to the extent that the Court agrees with the Board's argument that the Ordinance is pre-empted, arguably that pre-emption would apply across the board to any provisions that may be in conflict with State law.

Pending a decision from the Court of Appeals as to the Board's authority to hire legal counsel, the Board may elect to do any of the following:

- 1) Direct legal counsel to file a motion for reconsideration as to the pre-emption issue before Judge Yuille, that being the most significant issue in which the Judge did not rule in the Board's favor;
- 2) Seek leave to appeal in the Court of Appeals as to the pre-emption issue;
- 3) Proceed before Judge Yuille in the pending lawsuit for entry of a final order for which an Appeal of Right can be taken to the Court of Appeals (the parties can file an Appeal of Right once the case is finally adjudicated and all of the issues have been determined). Pending that circumstance, the parties, under Court rules, are entitled to seek leave to appeal. If issues remain in the subject lawsuit, the parties would not be entitled to an Appeal of Right, but instead could take an Appeal by Leave;
- 4) Work with the City Council to attempt to reach a consensus as to the responsibilities of the City Council vs. those of the Board of Trustees, pending a decision in the Court of Appeals as to the issue of hiring legal counsel.

Habeeb Ghattas stated that it is his and Mr. Spender's recommendation that the last option be considered by the Board. In light of the efforts to move forward, it is hoped that a consensus could be developed with the understanding that the Board's position with regard to the pre-emption argument is not prejudiced. Hopefully, the Board can meet its fiduciary responsibilities to the System as obligations under the Retirement Ordinance and there can be appropriate "checks and balances" in place.

Attorney Steven Spender concurred with Mr. Ghattas' summary of Judge Yuille's ruling and Mr. Ghattas' recommendation, also reiterating his own recommendation that the Board attempt to work with City Council at this point. Now that there is direction from Judge Yuille on his feelings on the relationship between the EFM and the Board of Trustees for FERS, and with the direction he has given, it is important that the Board attempt to work with the City Council to move forward.

Discussion followed.

Habeeb Ghattas noted that the City Council is the responsible entity with regard to the Ordinance (the Plan Document) that the Board is expected to administer. The Board is obligated to follow the procedures outlined in the Ordinance, regardless of State law, according to Judge Yuille. For example, according to Section 35-13, "Officers and Employees of Board", Part (c), "The City Treasurer shall be treasurer of the retirement system and the custodian of its funds." The Board of Trustees hired Northern Trust, consistent with its understanding of its responsibilities under State law, to serve as custodian. That, arguably, is in conflict with the Ordinance. Until the City Council is satisfied that the Ordinance provision needs to be amended, Judge Yuille would take the

position that the Board does not have the authority to hire its own custodian because that is in conflict with that provision of the Ordinance. That paragraph provides, additionally, "All payments from the funds of the system shall be made by the Treasurer, countersigned by the Director of Finance, only upon a specific or continuing resolution adopted by the Board of Trustees authorizing such payment or payments." The policy of the Board of Trustees, based upon its understanding of State law, has been that any two (2) of [originally] four (4) signatures [currently three, absent an Executive Director] – the Chair, Vice Chair, Secretary - would be authorized to bind the Retirement System. That policy would be in conflict with the Ordinance provision. The Ordinance, in certain respects, is outdated and needs to be revised to be consistent with State and Federal requirements. It is his hope that a committee would be appointed to meet with representatives of City Council and move forward in terms of addressing the issues. If the Board were to attempt to act today, based upon the Judge's ruling, without benefit of further review by the Judge or an appeal, the Board would be obligated to follow the specifics of the Retirement Ordinance.

Steven Spender noted that Mr. Ghattas is suggesting that the Board continue to work with City Council until the original Declaratory Judgement action is heard by the Court of Appeals. The attorneys have appealed the original declaratory judgement action that was filed regarding the Board's ability to independently retain their own legal counsel. The Court of Appeals must address the issue of whether or not Public Act #314 pre-empts the Retirement Ordinance, to the extent they are inconsistent with each other. The attorneys are recommending that the Board not appeal that issue because they believe the Court of Appeals will address it anyway. In the interim, the attorneys recommend that the Board work with the City Council in attempting to resolve any issues that surface during that appellate process. He does not believe the Board is under any time constraints. The denial of the preliminary injunction is not a final order, in his opinion, because it does not resolve all issues in the lawsuit; a final order would have to be appealed within 21 days of the date the Judge signs and enters it. The appellate period does not begin to run on any issues in the case, on any decision made by the Judge, until all of the claims and disputes at issue in the lawsuit are fully and finally determined by the Judge.

Discussion followed.

Amy Lindman asked whether Public Act 72, amended Public Act #771, allows the EFM to stop or change Ordinances the Council approved.

Habeeb Ghattas stated that the issue of Public Act 72, the enabling legislation for the EFM, was addressed by Judge Yuille, who ruled that the EFM does not have any authority over, and cannot issue directives to, the Board of Trustees. The Ordinance provides that the Board Members are Trustees of the assets of the Retirement System.

Additionally, the Board is charged with the responsibility to construe and make effective the provisions of the Plan. To the extent that the EFM, based upon his perceived authority under P.A. 72, as amended by P.A. 771, would attempt to change the Ordinance (thereby seeking control over the Retirement System), that, in the attorneys' opinion, would be a violation of the Court's order and one that the Board would be enjoined from engaging in.

Peter Dobrzeniecki raised a concern about having the proper legal signatures for fund transfers; for example, the pension payroll for June 1. Assuming the Ordinance is currently in effect, it states that the Treasurer signs and the Finance Director countersigns. At this point, are those the only two signatures that are valid?

Habeeb Ghattas noted that is what the Ordinance says; however, the City Council has the authority to amend that Ordinance. Steven Spender stated that, although it is inconsistent with prior Board practice, that is what the Ordinance says and Judge Yuille's opinion says to follow the Ordinance.

Chairman Daniel Hall noted that there could be a problem with the various entities involved (money managers, banks, etc.) with recognizing signatures other than the prior documentation requiring the use of two of three signatures: the chair, vice chair, and secretary. If those signatures are changed today, will the outside entities honor those signatures? Even with proper notice being given, could this create a delay in the pension payment and transfer for June 1 checks?

Attorney Jeffrey Welch noted that the provision of the Ordinance 35-13(c) provides, as follows: "The City Treasurer shall be treasurer of the retirement system and the custodian of its funds. All payments from the funds of the system shall be made by the Treasurer, countersigned by the Director of Finance, only upon a specific or continuing resolution adopted by the Board of Trustees authorizing such payment or payments." He would recommend that the Board adopt a resolution authorizing the payments and giving the Treasurer and Finance Director the authority to make the payment.

Cass Wisniewski asked if part of the application of the Ordinance as the only Plan Document is that the attorney of record for the Retirement Board is the City Attorney.

Habeeb Ghattas stated that is the provision of the Ordinance; however, it is an issue that is currently pending in the Court of Appeals. Judge Yuille decided that the Board has the authority to hire Counsel whenever a conflict exists. Since the Board had authorized an appeal of the decision regarding legal counsel in the Court of Appeals, it remains the Board's position that this specific section of the Ordinance is pre-empted by operation of State law. The Court of Appeals is expected to rule on that issue shortly.

Discussion followed regarding the issue of required signatures in the Ordinance and the previous Board resolution requiring two of three signatures for Board actions.

Habeeb Ghattas noted that this is a judicial decision that raises more questions than answers. He recommended that a new committee be created to meet with a committee from the City Council to review the Retirement Ordinance and come to a mutual understanding of the meaning of the various provisions, identifying those in which a conflict with current policy exists. For example, Section 35-13 relates to the payment of funds by the Treasurer – how does that relate to other decisions of the Board? Arguably, the policy of the Board would apply and would not be in conflict with this provision of the ordinance. Again, 35-13(h) provides that “The Board of Trustees may employ such professional and other services as are required for the proper operation of the retirement system.” Under the Ordinance and, in his opinion, clearly under State Law, the Board has the right to hire whomever they wish. The issue that remains is the remaining sentence, “The compensation for all services rendered to the Board shall be fixed by the City Council.” It is his position that, to the extent that P.A. 314 pre-empts the Ordinance, it allows the Board not only to hire, but to set the compensation as Trustees of the assets of the System. That is where the inconsistency is. The Board is told that they are the Trustees of the assets of the System but then, on the other hand, they are told to look to another party for approval. The State Law was enacted to ensure that Retirement Systems are separate trust funds. And, as the Trustees of those assets, the Board, in his opinion, has the authority not only to enter into contracts, but to set and approve the fees. However, since Judge Yuille doesn’t agree, and until such time as his decision is reversed or some consensus is developed among the parties, this is what the Ordinance calls for.

Peter Dobrzeniecki noted that the reason the original Ordinance would have given the City Treasurer the authority to sign for the trust was an attempt to establish a system of checks and balances. The Ordinance did not allow the Pension Board to spend any money without the City’s approval, but the City couldn’t spend any pension system money without the Pension Board’s approval. The Board had to issue a resolution allowing the City to spend. The City couldn’t spend without the resolution from the Board and the Board couldn’t spend the money without the City’s final approval. That was a system of checks and balances incorporated, from his perspective as an accountant, into the Ordinance. The mutual approval was the issue. This may have been pretty standard for its time; however, pension funds in 2004 are far more complicated than they used to be: what can and cannot be done, penalties, types of investments, etc.

Further discussion followed. It was noted that the Retirement Ordinance needs to be continually updated to comply with new and changing laws and maintain consistency with what is happening in the industry. Also, in meetings with the City Council, once needed changes to the Ordinance are identified, who will have the authority to change/

approve the Ordinance – the City Council or the EFM?

Habeeb Ghattas responded that P.A. 72, Section 21(p) provides that the EFM may exercise the authority and responsibilities of the Chief Administrative Officer and governing body concerning the adoption, amendment and enforcement of ordinances or resolutions affecting the financial condition of the unit of local government. However, the Retirement System is not a unit of local government, but a Retirement Trust. Therefore, he has no authority over the operation of the Retirement System. And, although he has authority over City officials, his authority does not extend over them when performing their duties as Trustees of the Retirement System. To the extent that he may attempt to direct the City Administrator or the Finance Director, or someone over which he has direct or indirect control, in the performance of their duties for the Retirement Trust, that presents a problem. The attorneys' recommendation is that, pending a decision by the Court of Appeals, the Board attempt to work with the City Council and come to an understanding of the Ordinance issues. If the EFM attempts to exert authority over City Council in these matters, the Board will presumably advise legal counsel to seek further review in the Court. Habeeb also noted that it would be prudent to appoint a committee to list the various questions and issues and, working with City Council, come to some understanding in terms of establishing protocol and procedures and revising the Ordinance.

A motion was made by Georgia Steinhoff, and supported by Darnell Earley, to accept the recommendation of legal counsel and special counsel that the Board of Trustees work with the City Council to review, change and update the Retirement Ordinance, reaching a consensus as to the responsibilities of the City Council and the Board of Trustees, pending a decision of the Court of Appeals.

Upon being put to a vote, the motion carried unanimously.

Darnell Earley stated that, in large part, the City is in agreement with Habeeb Ghattas' interpretation of the Judge's ruling. There are a lot of unanswered questions at this point, because the order forces all parties back to the Ordinance. The Pension Board may not have rigorously followed the Ordinance. There are issues on both sides that, for whatever reason, did not follow the Ordinance. The Judge admonished both sides to account for and correct what the Court has labeled "the continuing contentious relationship between the City of Flint and the Board of Trustees of the Retirement System of the City of Flint." As a Trustee, he is going on record as agreeing with Legal Counsel regarding working with the legislative body that establishes, outlines and guides the relationship between the City and the Pension Board. The greatest thing to come out of this ruling was the recognition of the fact that the framework is in place for operating the Flint Employees' Retirement System - the City Ordinance. Let all parties put the past aside and work together to resolve the issues in accordance with the Retirement

Ordinance, not using the Retirement System's resources to fight the City, which costs the System twice. A committee, with the System's interests in mind, needs to be set up to go back to the Ordinance, and work together to make the pension system as good as it can possibly be. All should be here with one agenda - the agenda of the Pension System. He would recommend that outstanding litigation issues be put aside and the Board move forward, working through the City Council, to have a well-functioning Pension Board that is working for the Pension System and trying to clarify the issues. This is about the City of Flint and the roles and responsibilities that all Trustees have, not only at this table, but as they deal with the business of the people of the City of Flint. He would like to go on record as recommending that the past be put behind, the lawsuits be dropped, and the Board go about the business of doing what the judge recommended, and that is to craft, amend and structure the ordinance to define the issues.

Chairman Daniel Hall thanked Darnell for his comments and noted that Darnell distributed a document to the Trustees outlining the City's response to the ruling. Dan noted that he will deal with the setting up of the Committee under Other Board Business. This Committee will be charged with the task of reworking the Ordinance, removing the inconsistencies and outdated language, and doing so in as timely a manner as possible. One word to note in the Ruling - "reasonable" - a word that needs to be remembered or the parties will end up back in Court. All involved need to be reasonable, positive, and meet their fiduciary responsibilities. It is important to define the Board's superior body - is it the City Council? The Mayor? The EFM? And get the issues resolved without returning to Court. Can the Board, the Committee, the City Council, the Mayor, and the EFM work together to resolve the issues and avoid further litigation? Going to court costs money and the money comes from the Plan participants. Serving on this Committee will require a lot of hard work.

Habeeb Ghattas noted that he would like to make a final point. Litigation has been a last resort for the Board of Trustees. For the 17+ years that he has been involved with the Board of Trustees, he doesn't believe that the Board has ever willingly filed a lawsuit unless they were put into a position in which the Board was left with no other options. In other words, when the Trustees, who are also employees of the Plan Sponsor, were put into a position that raised questions as to whether or not they were meeting their fiduciary responsibilities, and when the powers that be, in terms of the City Administration, ignored the requests of the Board of Trustees. For example, Chairperson Daniel Hall sent a letter to the EFM suggesting that the two parties needed to meet and come to an understanding as to each party's responsibilities under the law. The only response to that letter was further directives. We all agree that, going forward, there has to be a sense that people are willing to sit across the table and come to some consensus. Unfortunately, Trustees have not been given the opportunity to express their views and share their concerns which, when ignored, can lead to the alternative of litigation, which is the position the Board has been put into. With regard to this specific opinion, the Judge



clearly has indicated that, to the extent that he believes the Ordinance is valid, he anticipates and expects that the competing interests will get together and attempt to come to some understanding, going forward. He also clearly leaves the option open that, in the event there cannot be an understanding, the parties can go back to court. However, the goal has to be, and it is Counsel's recommendation, that a committee be formed to meet and come to an understanding of the issues so that all can move forward. Otherwise, to shelter the Trustees and the System, if the only recourse is litigation, then that is the recourse that would have to be followed.

Darnell Earley stated that he believes that all parties, including legal counsel, should work together to reach a consensus on the issues and avoid further litigation. The past must be left behind and all parties must work together towards a meaningful dialogue in dealing with the issues, becoming more responsive, more efficient, and more effective in administering the Pension System.

Chairman Daniel Hall requested that a copy of the updated Pension Ordinance, Chapter 35 of the City Code, be given to all members of the Board of Trustees for reference, along with any Ordinance or Charter information on processes and procedures for making changes. Chairman Hall then closed the discussion and asked that the Board move on in the Agenda.

Attorney Steven Spender left the meeting at 2:00 p.m.

3. APPROVAL OF THE APRIL 13, 2004 MONEY MANAGER MEETING MINUTES

It was moved by Georgia Steinhoff, and supported by Amy Lindman, to approve the minutes of the April 13, 2004 Money Manager Meeting, with corrections.

A correction was noted on Page 8845, under Members Absent:

Original Entry:

Absent Peter Dobrzeniecki, Darnell Earley, Jim Goodin, Mark Horrigan,  
Al Locke, Ed Taylor

Corrected Entry:

Absent Peter Dobrzeniecki, Darnell Earley, Jim Goodin, Mark Horrigan,  
*Al Lock*, Ed Taylor

Upon being put to a vote, the motion carried unanimously.

4. APPROVAL OF THE APRIL 20, 2004 REGULAR BOARD MEETING MINUTES

It was moved by Georgia Steinhoff, and supported by Robert Rosenberger, to approve the minutes of the April 20, 2004 Regular Board Meeting, with corrections.

Corrections were noted as follows:

Page 8850, Agenda Item #2, last paragraph:

Original Entry: Pam Greeve, 10564 Locke Road, Birch Run...

Corrected Entry: Pam *Grieve*, 10564 Locke Road, Birch Run...

Habeeb Ghattas noted the following correction on Page 8855, 3<sup>rd</sup> paragraph, 3<sup>rd</sup> sentence:

Original Entry: Prudence is the course of conduct.

Corrected Entry: Prudence is *a* course of conduct.

Habeeb Ghattas noted the following correction on Page 8859, 1<sup>st</sup> paragraph, 4<sup>th</sup> sentence:

Original Entry: Although MERS is a tax-qualified trust ...

Corrected Entry: Although *it is his understanding that* MERS is a tax-qualified trust...

Upon being put to a vote, the motion carried unanimously.

Chairman Daniel Hall distributed the minutes of the May 11, 2004, Special Board Meeting, and asked the Trustees to review the minutes during the break and then consider approving them at today's meeting.

2:10 p.m. – Chairman Daniel Hall called for a recess.

2:25 p.m. – Chairman Daniel Hall called the meeting back to order.

Chairman Daniel Hall asked if there was a motion to approve the minutes of the May 11, 2004

Special Retirement Board Meeting.

It was moved by Darnell Earley, and supported by Amy Lindman, to approve the minutes of the May 11, 2004 Special Board Meeting, with corrections.

Habeeb Ghattas noted a correction on page 8883, last paragraph, 1<sup>st</sup> sentence:

Original Entry: Habeeb Ghattas noted that his other concern, as the lead counsel for the  
the  
Board of Trustees...

Corrected Entry: Habeeb Ghattas noted that his other concern, as the *legal* counsel for the Board of Trustees...

Upon being put to a vote, the motion carried unanimously.

5. APPLICATIONS FOR VOLUNTARY RETIREMENT

Steven Anderson  
DPW/1600

Final Average Compensation:	\$ 35,929.60
Accumulated Contributions:	32,393.40
DRET:	25.38
Effective Date of Retirement	12/27/2003
Service: 32 Years, 10 Months	

The retiree elected the Option A in the amount of \$2,333.70

Bob Erlenbeck requested that Mr. Anderson's request for approval of his retirement continue to be tabled, as more actuarial information will be forthcoming from Gabriel, Roeder, Smith & Company which will have a bearing on Mr. Anderson's final decision whether or not to retire. Discussion followed.

Debra Arnold  
HMC/MTO

Final Average Compensation:	\$ 92,254.70
Accumulated Contributions:	41,245.66
DRET:	43,780.48
Effective Date of Retirement	04/01/2004
Service: 26 Years, 6 Months	

The retiree elected the Option Straight Life in the amount of \$4,497.42

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Debra Arnold be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension under the Option Straight Life, in the amount of \$4,497.42, for as long as she lives.

Betty Barber  
HMC/1603

Final Average Compensation:	\$ 33,540.74
Accumulated Contributions:	Non-Cont
DRET:	.00
Effective Date of Retirement	04/15/2004
Service: 33 Years, 8 Months	

The retiree elected the Option Straight Life in the amount of \$985.98

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Betty Barber be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension under the Option Straight Life, in the amount of \$985.98, for as long as she lives.

Mary Barton  
HMC/Exempt

Final Average Compensation:	\$ 57,903.69
Accumulated Contributions:	Non-Cont.
DRET:	.00
Effective Date of Retirement	04/02/2004
Service: 18 Years, 7 Months	

The retiree elected the Option Straight Life in the amount of \$983.69

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Mary Barton be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension under the Option Straight Life, in the amount of \$983.69, for as long as she lives.

Michael Grohoski  
Police/FPOA

Final Average Compensation:	\$ 54,940.35
Accumulated Contributions:	19,369.07
DRET:	29,506.42
Effective Date of Retirement	04/02/2004
Service: 23 Years, 1 Months	

The retiree elected the Option C in the amount of \$2,609.73

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Michael Grohoski be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension under the Option C, in the amount of \$2,609.73, for as long as he lives.

Clarissa Guest  
HMC/RN

Final Average Compensation:	\$ 47,429.98
Accumulated Contributions:	31,552.38
DRET:	18,737.19
Effective Date of Retirement	04/23/2004
Service: 25 Years, 0 Months	

The retiree elected the Option C w/pop-up in the amount of \$2,090.56

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Clarissa Guest be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension under the Option C w/pop-up, in the amount of \$2,090.56, for as long as she lives.

Robert Hudson  
HMC/Exempt

Final Average Compensation:	\$ 96,430.64
Accumulated Contributions:	Non Cont.
DRET:	.00
Effective Date of Retirement	04/02/2004
Service: 15 Years, 7 Months	

The retiree elected the Option A in the amount of \$1,999.32

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Robert Hudson be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly pension under the Option A, in the amount of \$1,999.32, for as long as he lives.

It was moved by Robert Rosenberger, and supported by Amy Lindman, to approve the Applications for Voluntary Retirement for Debra Arnold, Betty Barber, Mary Barton, Michael Grohoski, Clarissa Guest and Robert Hudson.

Upon being put to a vote, the motion to approve the Applications for Voluntary Retirement carried unanimously.

6. APPLICATIONS FOR DEFERRED RETIREMENTS

Melissa Napier  
HMC/Exempt

Final Average Compensation:	\$ 65,984.32
Accumulated Contributions:	Non Cont.
DRET:	.00
Effective Date of Retirement	01/21/2004
Service: 13 Years, 3 Months	

The retiree will elect an Option prior to 03/01/2020

Terry Nunn  
HMC/1603

Final Average Compensation:	\$ 39,816.77
Accumulated Contributions:	Non Cont.
DRET:	.00
Effective Date of Retirement	04/17/2004
Service: 22 Years, 10 Months	
The retiree will elect an Option prior to 03/01/2015	

It was moved by Georgia Steinhoff, and supported by Amy Lindman, to approve the Applications for Deferred Retirement for Melissa Napier and Terry Nunn.

Upon being put to a vote, the motion carried unanimously.

A question was asked about the meaning of "DRET" and it was noted that it represented pre-tax contributions.

7. APPROVAL OF PENSIONS PREVIOUSLY REPORTED

Deborah Brower/HMC Revised FAC \$78,596.66

**Retroactive pay received after retirement**

Robert Gillis/HMC Revised FAC \$69,457.98

**Retroactive pay received after retirement**

Anne McAuliffe/HMC Revised FAC \$51,253.02

**Retroactive pay received after retirement**

Sheryl McBrayer/HMC Revised FAC \$51,400.36

**Retroactive pay received after retirement**

Janet Wood/HMC Revised FAC \$57,630.69

**Retroactive pay received after retirement**

Sharen Zuehlke/HMC

Revised FAC \$40,768.63

**Retroactive pay received after retirement**

A motion was made by Georgia Steinhoff, and supported by Amy Lindman, to approve the pensions previously reported.

Upon being put to a vote, the motion carried unanimously.

There was a discussion regarding the need for more detailed information in order to ascertain the basis for inclusion in FAC. Bob Erlenbeck noted that he and his staff have been unable to obtain more detailed information from the Hurley Payroll Department, despite repeated requests. Chairman Daniel Hall asked Cass Wisniewski to investigate.

8. APPROVAL FOR NON-DUTY DEATH BENEFITS

Olevia Pollard (Beneficiary Alvin Pollard Jr., - Spouse)  
HMC/1973

Final Average Compensation:	\$ 45,637.43
Accumulated Contributions:	Non Cont.
DRET:	.00
Effective Date of Retirement	03/11/2004
Service: 22 Years, 4 Months	

The beneficiary will receive a monthly benefit in the amount of \$1,232.08

RESOLVED, that the Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement for Alvin Pollard Jr., deceased, be approved and the Treasurer of the City of Flint Employees' Retirement System be authorized and directed to pay a monthly non-duty death benefit in the amount of \$1,232.08, to Olevia Pollard, beneficiary, for as long as she lives.

It was moved by Amy Lindman, and supported by Robert Rosenberger, to approve the payment of a Non-Duty Death Benefit for Alvin Pollard, Jr., deceased, to Olevia Pollard, beneficiary.

Discussion followed.

Upon being put to a vote, the motion carried unanimously.



9. APPLICATIONS FOR DUTY DISABILITY RETIREMENT

Gail Cotter  
Police/FPOA

Age: 44 Years  
Service: 15 Years, 0 Months

The medical report and summary of Disability Determination dated April 8, 2004 from Dr. Victor Roth, Medical Director, does certify that Gail Cotter is not totally and permanently disabled.

In addition, a statement for professional services rendered in the amount of \$550.00 was submitted by M-Works.

Leroy Macklin Jr.  
Police/FPOA

Age: 37 Years  
Service: 13 Years, 4 Months

The medical report and summary of Disability Determination dated April 29, 2004 from Dr. Victor Roth, Medical Director, does certify that Leroy Macklin is not totally and permanently disabled.

In addition, a statement for professional services rendered in the amount of \$550.00 was submitted by M-Works.

Stephen Tarkowski  
Fire/352

Age: 50 Years  
Service: 23 Years, 5 Months

The medical report and summary of Disability Determination dated April 29, 2004 from Dr. Victor Roth, Medical Director, does certify that Stephen Tarkowski is not totally and permanently disabled.

In addition, a statement for professional services rendered in the amount of \$550.00 was submitted by M-Works.

It was requested by Georgia Steinhoff, Chair of the Professional Services Committee, that the applications for duty disability retirement for Gail Cotter, Leroy Macklin Jr., and Stephen Tarkowski be tabled until next month's Board Meeting, pending review and recommendations by the Professional Services Committee.

Discussion of procedures for handling duty disability retirement requests followed. Also, it was decided that there should be a written policy outlining restrictions on duty disability retirees for performing certain types of work after their disability retirement. Chairman Daniel Hall referred the matter to the Professional Services Committee.

10. UPCOMING CONFERENCES

- 10.1 National Association of Real Estate Investment Trusts, 2004 NAREIT Institutional Investor Forum, June 7-9, 2004, New York, NY. (On file in Retirement)
- 10.2 Institute for International Research, 11<sup>th</sup> Annual Hedge Fund Forum, June 21-24, 2004, New York, NY. (On file in Retirement)
- 10.3 Information Management Network, 9<sup>th</sup> Annual Fire & Police Pension Funds Summit "Shoots & Ladders", June 27-30, 2004, Lake Tahoe, NV. (On file in Retirement)
- 10.4 International Foundation, Essentials of Public Sector Benefits Administration, September 27-30, 2004, Brookfield, WI. (On file in Retirement)
- 10.5 International Foundation, Health Care Management Conference, November 15-17, 2004, Monterey, CA. (On file in Retirement)

It was moved by Amy Lindman, and supported by Cass Wisniewski, to add the stated conferences to the list of authorized conferences.

Upon being put to a vote, the motion carried unanimously.

11. COMMUNICATIONS RECEIVED

- 11.1 International Foundation, Employee Benefits Digest, May 2004. (On file in Retirement)
- 11.2 David Babson & Co., The Babson Staff Letter, April 9, 2004. (On file in Retirement)
- 11.3 David Babson & Co., The Babson Staff Letter, April 23, 2004. (On file in Retirement)
- 11.4 Callan Associates, 2004 Investment Management Fee Survey, April 26, 2004. (On file in Retirement)
- 11.5 NCPERS, PERSIST, Spring 2004. (On file in Retirement)
- 11.6 NCPERS, The Monitor, April 2004. (On file in Retirement)
- 11.7 Northern Trust, Notice of Change in Trade Notification Timing, April 23, 2004. (On file in Retirement)
- 11.8 Gabriel, Roeder, Smith & Co., News Scan, April 2004. (On file in Retirement)
- 11.9 Fidelity Real Estate – Growth Fund, Schedule K-1 for 2003. (On file in Retirement)
- 11.10 Merrill Lynch Investment Managers, Article on Transition Management, April 26, 2004. (On file in Retirement)
- 11.11 MAPERS, 2004 Membership Directory. (On file in Retirement)
- 11.12 State Street Global Advisors, Notice of Annual ERISA Report Filing, April 2004. (On file in Retirement)
- 11.13 Bank of Ireland Asset Management, Client Update, 1<sup>st</sup> Qtr 2004. (On file in Retirement)
- 11.14 Mesirow Financial, Invitation to Dinner during MAPERS Conference, May 22, 2004, Tullymore Golf Club. (On file in Retirement)
- 11.15 NCPERS, Investment Guidelines “What is your Policy” Your Role as a Trustee, May 1, 2004. (Enclosed)
- 11.16 Daniel Hall, Memo to Charlotte Novak re: FERS Bylaws, April 22, 2004. (Enclosed)
- 11.17 Local #2056 Union Meeting re: FERS to MERS, April 29, 2004. (Enclosed)

- 11.18 Resolution by the Board of Trustees and the City of Flint Employees' Retirement System adopting action steps as recommended by the Pension Reform Task Force and outlined by Gabriel, Roeder, Smith & Company in their letter of November 18, 2003; Presented and Adopted on February 17, 2004. (Enclosed)
- 11.19 Letter to Larry Langer from Daniel Hall & Peter Dobrzeniecki re: Evaluation & Release of Actuarial Data, May 13, 2004. (Enclosed)

It was moved by Amy Lindman, and supported by Robert Rosenberger, to receive the communications on file.

Upon being put to a vote, the motion carried unanimously.

## 12. REPORTS RECEIVED

- 12.1 State Street Global Advisors, Account Summary as of March 31, 2004. (On file in Retirement)
- 12.2 Lynch, Jones & Ryan, Trading Summary as of March 31, 2004. (On file in Retirement)
- 12.3 Magna Securities, Commission Recapture Report as of March 31, 2004. (On file in Retirement)
- 12.4 Fidelity Investments, Monthly Investment Update as of March 31, 2004. (On file in Retirement)
- 12.5 Fidelity Investments, Monthly Investment Update as of April 30, 2004. (On file in Retirement)
- 12.6 Bank of Ireland, Statement of Holding as of April 30, 2004. (On file in Retirement)
- 12.7 Fortis Investment Services, Transactions made by Wentworth, Hauser & Violich, April 20, 2004. (On file in Retirement)
- 12.8 State Street Global Advisors, Investment Quarterly, 2<sup>nd</sup> Qtr 2004. (On file in Retirement)
- 12.9 GLOBALT Investments, Equity Strategies, 1<sup>st</sup> Qtr 2004. (On file in Retirement)
- 12.10 LSV Asset Management, LSV 1<sup>st</sup> Quarter Review, April 2004. (On file in Retirement)

- 12.11 RCM, Investment Performance as of March 31, 2004. (On file in Retirement)
- 12.12 RCM, Directed Brokerage Report as of March 31, 2004. (On file in Retirement)
- 12.13 Piper Jaffray, Transactions made by Wentworth, Hauser & Violich, April 20, 2004. (On file in Retirement)
- 12.14 ICON Advisors, City of Flint Quarterly Statement for period ending March 31, 2004. (On file in Retirement)
- 12.15 Bank of Ireland, Portfolio Valuation as of March 31, 2004. (On file in Retirement)
- 12.16 RCM, Performance Summary for the Quarter Ending March 31, 2004. (On file in Retirement)
- 12.17 RCM, Performance Summary for the Month Ending March 31, 2004. (On file in Retirement)
- 12.18 Northern Trust Reports – March 2004 (Enclosed)
- 12.19 Retirement Fund Employee/Employer Contributions (Enclosed)

It was moved by Amy Lindman, and supported by Robert Rosenberger, to receive the reports on file.

Upon being put to a vote, the motion carried unanimously.

13. STATISTICAL REPORT OF BENEFITS

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Number Retired	2,964	3,001	2,984
Annualized Payroll	\$ 58,416,621	\$ 61,357,283	\$ 62,630,210
13 <sup>th</sup> Check	-0-	-0-	-0-
Charter 13 <sup>th</sup> Check	-0-	-0-	-0-

No action is necessary by the Board – for information only.

14. APPROVAL OF THE JUNE 1, 2004 PENSION PAYROLL TRANSFER

A request to transfer \$4,684,354 from State Street Global Advisors to Citizens Bank, for payment of the June 1, 2004 pension payroll, was presented to the Board. Chairman Daniel Hall tabled Item #14 until further into the Agenda.

15. RESOLUTION AUTHORIZING THE TRANSFER OF ALL DATA FOR CERTAIN ACTIVE MEMBERS AND RETIREES OF HURLEY MEDICAL CENTER

Tabled.

Update: Cass Wisniewski noted that Hurley Medical Center gave the City the missing payroll information today. Peter Dobrzeniecki stated that the City has received a request for additional information from Larry Langer at Gabriel, Roeder, Smith & Company (GRS). He stated that all information originally requested would be completed by early next week and forwarded to GRS. However, the latest request for information will require additional work by the City and Hurley and the projected date of completion is unknown at this time.

16. RESOLUTION AUTHORIZING THE TRANSFER OF RELATED ASSETS AND LIABILITIES FOR CERTAIN ACTIVE MEMBERS AND RETIREES OF HURLEY MEDICAL CENTER.

Tabled.

17. AUDIT COMMITTEE REPORT  
- Update/Recommendations

Chairman Daniel Hall noted that no Audit Committee meeting has taken place since the last Board Meeting; however, a meeting will be held shortly to discuss the progress of the Plante & Moran audit.

18. DB/DC COMMITTEE REPORT

Committee Chair Robert Rosenberger reported that the Committee met for a telephone conference with the attorney from ICMA. The attorney was unable to answer some of their questions. The next telephone conference is scheduled for Thursday, May 20, at 10:00 a.m.

19. DUE DILIGENCE REPORT

Committee Chair Sandra Kidd stated that Committee members have met with Sekar Bawa and Peter Dobrzeniecki to review the "walk-across" sheet and answer the Committee's questions. They now have a greater comfort level with that report. Board Chairman Daniel Hall noted that any Board Members who wish to review this report with Peter Dobrzeniecki and Sekar Bawa are invited to do so.

Chairman Daniel Hall stated that the Due Diligence Committee will be disbanded and asked that it be removed from future agendas. A new committee will be created and be given the task of reviewing education and travel for Trustees. He expressed his appreciation to the Due Diligence Committee for their efforts.

20. PROFESSIONAL SERVICES COMMITTEE REPORT

- Holly Duncan reevaluation
- Jill Higgerson reevaluation
- Disability Report
- RFP, Consultant Report
- Equating Option

Georgia Steinhoff reported that the Committee met with Dr. Roth on April 27. The meeting was very productive and there were issues Dr. Roth had that the Committee helped resolve for him and questions from the Committee regarding his reports that he was able to clarify for them.

The Committee discussed Holly Duncan (the individual who applied for disability retirement about a year ago) with Dr. Roth. She was examined by two doctors and found to be not disabled; however, she has asked about a process for reexamination. Dr. Roth's recommendation is that she be contacted by the Board's attorney and asked to provide the Board with documentation showing that there has been a significant change from a year ago, when she originally applied for disability retirement. If so, then the Board would consider sending her for a reexamination. Since there is no current reexamination policy

in place, the Committee is incorporating this recommendation into the policy they are developing regarding requests for reconsideration of denial of disability retirements. This policy needs to outline conditions under which an individual can be reexamined and the limits on requests for reexamination. Currently, Bob Erlenbeck reviews the applications and forwards them to the Committee for review and recommendations to the Board. All medical information is kept in the retirement files in the Retirement Office.

Georgia Steinhoff reported that the Committee discussed Jill Higgerson's report with Dr. Roth, who will send additional information clarifying the language regarding restrictions. This item should be tabled until the next meeting.

Georgia Steinhoff reported that Dan Coffield has asked the Committee to meet with the Russell Group for an educational presentation regarding traditional vs. implemented consulting. This meeting has been scheduled for June 7, at 12:00 noon (lunch included), at Hurley Medical Center. Both the Investment Committee and the Professional Services Committee (and any other interested Board Members) have been asked to attend. The meeting will be posted pursuant to the Open Meetings Act.

Georgia Steinhoff noted that the equating option issue was referred to City Council for an Ordinance amendment to reflect legal changes that allow the equating option of adjusting retirement benefits to social security benefits. The ordinance language will also need to reflect the fact that the eligibility age for drawing social security depends on the year of birth. She is unsure of the current status of this issue with the City Council. The Board had previously requested that the Law Office address this issue.

Attorney Habeeb Ghattas noted that he received a telephone call this morning from the City Council Office with a question regarding the Social Security Equating Option Ordinance change. He will stop in the Council Office after this meeting to address their question.

## 21. INVESTMENT COMMITTEE REPORT

- Recommendations – Report
- Manager Review
- MERS Update

Chairman Daniel Hall gave the Investment Committee report in Dan Coffield's absence. The minutes of the May 14 meeting were distributed to the Board.

He noted that the Investment Committee is developing a methodology for the accumulation of funds for the MERS transfer, as follows:



- a. Asset allocation percentages will be maintained after the transfer.
- b. Real estate investments will remain constant due to the System's under allocation to Venture Capital.
- c. Within each asset class, index funds will be drawn down first.
- d. Any remaining funds will be transferred from active managers, if needed.

Daniel Hall reported that the Investment Committee recommends that the Board move forward with the award of \$10 million to Lee Munder Capital Group small cap from Russell 1000 index funds at State Street (a small cap replacement for High Rock Capital).

He also noted that Capital BIDCO (FERS is a large shareholder) will be sending a settlement distribution of approximately \$1 million back to the Fund. The Investment Committee recommends putting those funds into the drawdown fund, when received.

Daniel Hall stated that it is the recommendation of the Investment Committee to transfer \$5 million from the State Street S&P 500 funds to the pension drawdown fund at State Street to meet the pension fund transfer for the pension payroll for the month of June 2004.

He reported that, at the next meeting on June 11, at 11:30 a.m., the Committee will be evaluating additional allocations of assets to the drawdown fund to complete the drawdown for the rest of the year.

Chairman Daniel Hall called for a motion to accept the Committee's recommendation and award \$10,000,000 to Lee Munder Capital Group from Russell 1000 Index Funds. He noted that the due diligence visit has been done and he recommends that the Board move forward with the approval of this award so that Attorney Habeeb Ghattas can begin the contract process for that transition.

Discussion followed. It was noted that Lee Munder Capital Group is not the same investment manager that was retained by the Board of Trustees some years ago and subsequently sold to Comerica. Lee Munder, the original principal of the former group, separated from that group and organized a different management company, now called the Lee Munder Capital Group. There are no employees of the former firm employed by Lee Munder Capital Group. Currently, Wellington is the only small cap manager for the Fund.

A motion to transfer \$10,000,000 from the Russell 1000 Index Fund to Lee Munder Capital Group for small cap investments, engaging Habeeb Ghattas to negotiate contract and fee structure with Lee Munder Capital Group, was made by Amy Lindman, and supported by Cass Wisniewski.

Upon being put to a vote, the motion carried unanimously.

Alvern Lock left the meeting at 3:12 p.m.

A motion to transfer \$5,000,000 from the State Street S & P 500 Fund to the State Street Pension Drawdown Fund for the June 1, 2004 Payroll, was made by Darnell Earley, and supported by Cass Wisniewski.

Upon being put to a vote, the motion carried unanimously.

A motion to approve the pension payroll transfer for June 2004 in the amount of \$4,684,354 from State Street to Citizens Bank, was made by Darnell Earley, and supported by Georgia Steinhoff.

Upon being put to a vote, the motion carried unanimously.

## 22. EDUCATION POLICY

Chairman Daniel Hall noted that he will create a committee of four people to look at the Board's education, travel and conference policy. This will help in developing a budget and ensuring that necessary conferences and education are funded. He asked for volunteers and appointed Don Phillips, Sandra Kidd, Jan Kehoe, and Bob Erlenbeck to this committee. He also asked the four to select a committee chairman and a committee name. He requested that the Committee work on the development of a reasonable policy to recommend to the Board regarding due diligence and education expenses for Trustees. Darnell Earley noted that it is the City's intent to fund a budget for necessary expenditures for the operation of the Pension Board, including education and travel.

## 23. LEGAL COUNSEL UPDATES

- Board v Kurtz

This issue was addressed earlier in the meeting.

## 24. OTHER BOARD BUSINESS

Chairman Daniel Hall noted that the Board received an award for their participation in the Fidelity Investments' Fidelity Real Estate Growth Fund II. This fund reached a total of \$625 million of committed capital upon its final closing on February 27. FERS is one of their 35 institutional investors.

Bob Erlenbeck noted that the issue regarding the escalator provision has been addressed by Sandra Rodwan, who has given the City direction as to how those pensions should be calculated. The staff has now recalculated and corrected all affected pensions and letters have been sent to those involved. Copies of the letters will be given to the Board.

In response to a question from Donald Phillips regarding the cost of the buyback, Bob Erlenbeck responded that Gabriel, Roeder, Smith & Company is still working on the calculations for the costs of the purchase of time. The City has provided to them all requested information and they are hoping that, within the next 30 days, this issue will be finalized.

Don Phillips stated that he has talked to Dan Coffield about his replacement of his predecessor, Hugh Rose, on a Committee addressing proxy voting on the Council of Institutional Investors in New York. They believe it would be beneficial for Dan Coffield to attend the CII Meeting in July to serve on this Committee. Although FERS has not paid their dues to CII, due to the budget situation, CII has waived the dues for 2004.

Motion to send Dan Coffield to the Council of Institutional Investors' Committee Meeting regarding proxy votes, made by Cass Wisniewski, and supported by Amy Lindman.

Upon being put to a vote, the motion carried unanimously.

Peter Dobrzeniecki distributed a spreadsheet copy of the budget for the Retirement System for Fiscal Year 2005. He noted that the Board would be subject to this budget under Public Act 621, the Uniform Budgeting & Accounting Act. It was also noted that, based on the cost allocation methodology, the budget represents all budgeted positions, regardless of salaries currently being paid.

Chairman Daniel Hall stated that he is setting up a new committee to work with the City Council regarding needed Retirement Ordinance changes. The following Trustees were appointed to serve on that Committee: Daniel Hall, Donald Phillips, Robert Rosenberger, Cass Wisniewski or Dan Coffield representing Hurley. Councilmen/Trustees Edward Taylor and Mark Horrigan will work with the Committee also.

Attorney Habeeb Ghattas noted that, due to the number of persons involved on this Committee, including Councilpersons/Trustees, the Committee meetings may need to be posted pursuant to the Open Meetings Act.

Georgia Steinhoff asked Bob Erlenbeck about the status of Steven Anderson. Bob Erlenbeck stated that Mr. Anderson is not currently working and the City (not FERS) is paying him an amount equal to what his pension is estimated to be. Based upon his final pension calculation by GRS, Mr. Anderson will decide whether or not to retire and under what conditions. Bob stated that he will contact Larry Langer to ask if this calculation can be done as soon as possible.

Chairman Daniel Hall stated that he had received copies of the draft of the FY02 58<sup>th</sup> Annual Actuarial Report from Larry Langer. Peter Dobrzeniecki noted that this draft reflects some changes.

Bob Erlenbeck stated that the balance in the drawdown fund as of yesterday, per Mary Guy at State Street, was \$19.9 million.

Don Phillips noted that, at the NCPERS conference, he talked to a representative from Caplin Fox, an organization that tracks fraud by corporations. If any settlement is reached, they will notify their clients (at no cost to the client). He will give the information to Habeeb Ghattas for follow up.

25. ADJOURNED

A motion was made by Amy Lindman, and supported by Georgia Steinhoff, to adjourn the meeting at 3:37 p.m.

Upon being put to a vote, the motion carried unanimously.

Respectfully submitted,

Peter Dobrzeniecki  
Secretary