

**CITY OF FLINT EMPLOYEES' RETIREMENT SYSTEM
Board of Trustees Regular Meeting – Retirement Board Minutes
Tuesday, October 20, 2009**

A regular meeting of the Board of Trustees of the City of Flint Employees' Retirement System was held on Tuesday, October 20, 2009 at 1:00 p.m. in the Committee-of-the-Whole Room, 3rd Floor, City Council Chambers, at City Hall, with the following in attendance:

TRUSTEES & ALTERNATES Douglas Bingaman – Acting Chairperson, Denise Bingaman, Debra Bridges, Robert Erlenbeck, John Erwin, Michelle Kirkwood, Sherry Murphy, Mark Stratman, Michael Townsend, Cass Wisniewski

ABSENT Mary Bland, Greg Eason, Ehren Gonzalez, Janice Kehoe, Erwin D. Kelley, Kerry Nelson

ALSO PRESENT Suzi Bye, Retirement & Benefits Manager
I'Lanta Robbins, Assistant City Attorney/Attorney for Retirement Board
Julie Sadler, Assistant to FERS

1. CHAIRPERSON CALLS THE MEETING TO ORDER

Acting Chair Douglas Bingaman called the meeting to order at 1:09 p.m.

2. ROLL CALL (Attendance)

Roll was called and members were present or absent as noted 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

Motion by Robert Erlenbeck, supported by Cass Wisniewski, to approve the agenda, as presented at the meeting. The motion carried unanimously.

5. APPOINTMENT OF BOARD CHAIR & VICE CHAIR

Motion by Robert Erlenbeck, supported by Cass Wisniewski, to table the issue of appointing a Chair. Discussion followed. Mr. Bingaman noted that he would not be present at the November meeting to fulfill his role as Acting Chair. **The motion carried unanimously.**

Motion by Cass Wisniewski, supported by Robert Erlenbeck, to nominate Michael Townsend as Interim Vice Chair. Discussion followed. Attorney I'Lanta Robbins stated that the Secretary can serve as Interim Vice Chair. **The motion carried unanimously.**

6. APPROVAL OF MINUTES – August 18, 2009 Regular Board Meeting - Correction

Motion made by Cass Wisniewski, supported by Robert Erlenbeck, to approve the correction to the August 18 minutes, as outlined on page 9970. The motion carried unanimously.

APPROVAL OF MINUTES – September 22, 2009 Regular Board Meeting

Motion made by Cass Wisniewski, supported by Robert Erlenbeck, to approve the minutes of the September 22, 2009 Regular Board Meeting, as presented. The motion carried unanimously.

7. APPLICATIONS FOR VOLUNTARY RETIREMENT – *See Attached*

Motion by Robert Erlenbeck, supported by Cass Wisniewski, to approve the October 20, 2009 Applications for Voluntary Retirement – Service, Final Average Compensation, Accumulated Contributions and Effective Date of Retirement – for Helena Brooks, Richard Cayton, and Carolyn Demps, 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. The motion carried unanimously.

8. APPLICATIONS FOR DEFERRED RETIREMENT – *See Attached*

Motion by Robert Erlenbeck, supported by Michael Townsend, to approve the October 20, 2009 Applications for Deferred Retirement for Deirdre Pitts and Charles St. James. The motion carried unanimously.

9. APPROVAL OF DISABILITY PENSIONS – NONE

10. APPROVAL OF PENSIONS PREVIOUSLY REPORTED – NONE

11. OPTIONS PICKED BY DEFERRED RETIREMENTS – NONE

12. CHANGES TO PENSIONS – NONE

13. UPCOMING CONFERENCES

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

13.1 Pensions & Investments Defined Contribution Conference, San Francisco, Nov. 1-3, 2009.

13.2 55th Annual Employee Benefits Conference, Orlando, Florida, November 8-11, 2009.

13.3 14th Annual Super Bowl of indexing, Phoenix, Arizona, December 6-9, 2009.

13.4 Visions, Insights & Perspectives-Institutional Real Estate, Palos Verdes, CA, Feb. 9-11, 2010.

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

14.1 Attorney Norbert B. Leonard, Letter to I'Lanta Robbins re: James Maxwell Hearing, September 24, 2009.

14.2 Northern Trust re: Third Party Mutual Fund Processing, September 1, 2009.

14.3 City of Flint, Settlement Agreement for Eddie Mack, August 25, 2009. *

14.4 City of Flint, Settlement Agreement for Lorraine Cameron, September 2, 2009. *

14.5 Gabriel Roeder Smith & Co., Supplemental Actuarial Valuation for Settlement Agreements for Eddie Mack and Lorraine Cameron, September 24, 2009. *

14.6 Veronica E. Simon, Letter to Suzi Bye re: 1998 W-2 Payroll Deductions for Pension 457(b) Plan, September 28, 2009.

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 packets.)*

- 15.1 Bingaman/Townsend, Letter to Northern Trust re: October 1, 2009 Pension Payroll, September 22, 2009.
- 15.2 Bingaman/Townsend, Letter of Response to Mrs. J. Delores Harrison re Pension & Survivor Benefits, September 23, 2009.
- 15.3 Bingaman, Memo to Inez Brown, City Clerk, re: New Retirement Board Trustees/Alternates, September 21, 2009.
- 15.4 Bingaman/Townsend, Letter to Stephen Sandstedt re: Capital BIDCO Financial Meeting, September 25, 2009.
- 15.5 Suzi Bye, Letter to Catherine Allan re: Equated 65 SS Option Reduction & Overpayment, September 22, 1009. *
- 15.6 Suzi Bye, Letter to David Plewes re: Overpayment Information and Options for Repayment, September 24, 2009. *
- 15.7 Suzi Bye, Letter to Stephen Colonna re: Overpayment Information and Options for Repayment, September 28, 2009. *
- 15.8 Suzi Bye, Response to Veronica Simon Letter re: 1998 W-2 Payroll Deductions for 457(b) Plan, October 6, 2009.

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 Wentworth, Hauser and Violich, August 2009 Report for FERS, September 17, 2009.
- 16.2 Magna Securities Corp., Commission Recapture Report for FERS 8/1/2009-8/31/2009.
- 16.3 LJR/BNY ConvergEx Group, Commission Recapture Report through August 31, 2009.
- 16.4 Piedmont Investment Advisors, Monthly Report for Period Ending August 31, 2009.
- 16.5 Dodge & Cox, Brokerage Commission Report July 1-September 30, 2009.

A motion was made by Robert Erlenbeck, and supported by Cass Wisniewski, to receive and place on file all documents listed in Agenda Item #s 13, 14, 15, 16. It was noted that Item #s 14.3, 14.4 and 14.5 will be discussed during the Professional Services Committee report under Agenda Item #22. **The motion carried unanimously.**

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

	<u>2007</u>	<u>2008</u>	<u>2009 YTD</u>
Number Retired	3,037	3,065	2,837
Annualized Payroll	\$68,251,822* <i>*includes 13th check</i>	\$66,402,468	\$54,611,267

18. GRAY & COMPANY - REPORT/RECOMMENDATIONS

- ◆ **Schedule of Asset Classes, Manager Allocation & Re-Balancing** - Acting Chair Doug Bingaman distributed and reviewed a report reflecting the Fund as of October 15, 2009. Discussion followed.
- ◆ **Educational Session regarding Manager Allocation & Investment Performance** – Scheduled November 24 @ 1:00 p.m.

19. APPROVAL OF THE NOVEMBER 1, 2009 PENSION PAYROLL TRANSFER

A motion was made by John Erwin, and supported by Robert Erlenbeck, to approve a transfer of \$4,458,300.00 for payment of the November 1, 2009 pension payroll (total estimated payroll - \$5,017,173), from the Northern Trust Flint – Drawdown Account #26-19617 to Citizens Bank. The motion carried unanimously.

20. ACTUARIAL ISSUES

- ◆ **GRS FY 2008 Actuarial Valuation Status** *(Info provided to GRS – Valuation in process)* - Chairman Bingaman reported that the Valuation is expected to be completed and presented to the Board at the December or January meeting. The report will include the contribution rates for fiscal year 2011.

21. LEGAL COUNSEL UPDATES

Attorney P'Lanta Robbins reported on the following pending legal issues:

- ◆ **Take Two Interactive Lawsuit** – Attorney George Peck has indicated that there is a proposed settlement, with the documents scheduled to be submitted to the court by October 30th. The settlement may be contested. After a settlement is approved, Attorney Peck will file a Notice of Claim for FERS' share of the settlement proceeds. Further details will be available within the next couple of months.
- ◆ **Pension Calculation Errors Lawsuits – Cherwinski/Tereau/Kelly**
- ◆ **Pension Calculation Errors Lawsuits - Burns/Wiggins/Doerr**
- ◆ **Susan Jarema - Purchase of Time**

A mediator has been selected and the first hearing scheduled in November.

- ◆ **James Maxwell – Duty Disability Pension**
 - ◆ **Reschedule Hearing to December 15 at 10:00 a.m.** (*Agenda Item #14.1*)

His attorney has submitted a brief; Attorney Robbins will also be submitting a brief. The documents will be in the next agenda packets.

- ◆ **FAC Calculation Policy** – *research in progress.*
- ◆ **Capital BidCo** (*Agenda Item #15.4*) – Attorney Robbins, Michael Townsend and Douglas Bingaman attended a meeting with other shareholders, who include the Lansing Board of Water & Light, Capital Partners, and the Muskegon Chamber of Commerce. The Capital BidCo financial statements are currently under review. Approximately \$100,000 will be paid to FERS after the liquidation is completed. The shareholders are sending a joint letter to Capital BidCo officials requesting further information.
- ◆ **Sharon & Donna Stellmacher – Survivorship Issue** – Attorney Robbins has reviewed Mr. Stellmacher's will, which gave his pension to his second (current) wife, Sharon; however, the divorce decree gave the pension to his first wife, Donna, with a portion to go to the second wife, to be paid to her by the first wife. Also, regarding his residual beneficiary, the file does not indicate any record of what a residual benefit is nor is there on record a residual form. Therefore, any remaining portion should be paid to his first wife, Donna, as stipulated in the divorce decree.
- ◆ **Linda Winfrey – Settlement Agreement** – *Pending - under legal review.*

- ◆ **Cynthia Fent, Deceased – Ten Year Certain Pension** (*Pending w/Atty VanOverbeke*) – Attorney Michael VanOverbeke has issued a draft of his opinion. The issue should be resolved before the next Board Meeting.

22. PROFESSIONAL SERVICES COMMITTEE

Robert Erlenbeck reported on the following issues, as discussed by the Committee:

- ◆ **Claude Miller Pension Revisions** – David Plewes is the last pension to be recalculated. The next step is to begin processing the requests for review.
- ◆ **Veronica Simon – Contributions** (*Agenda Item #s 14.6 & 15.8*) – No contributions were withheld during her previous employment with the City. She is now re-employed with the City. She was sent a letter from the Board offering her the option to make the contributions for her previous time without any interest, in order to receive retirement credit. She responded in a letter indicating that she believed that no contributions should be necessary and referencing her 457 contributions. She was informed that the 457 plan is not connected to the pension fund.
- ◆ **Cost Saving Measures - Pending**
 - ◆ **Pension Advice Mailing**
 - ◆ **Votenet Solutions – Telephone/Online Voting Service**
- ◆ **David Williams – Deceased Police Officer** – Attorney Robbins sent a letter to the attorney representing his ex-wife and minor son asking that he request clarification from the Domestic Relations Board. A Motion for Clarification was filed regarding the Judgment of Divorce, which had stated that the pension would be waived in return for payment of a lump sum to his ex-wife by Mr. Williams. The attorney has indicated that the money was never paid; therefore, she would be entitled to his pension. The court date is scheduled within the next couple of weeks. Attorney Robbins will appear for the Retirement System.
- ◆ **Actuary RFP & Listing** – Mr. Erlenbeck stated that sample RFPs have been collected from various communities and retirement systems. There are six actuaries on the list to be contacted. Discussion followed. The current contract with GRS expires December 31, 2009 and includes the fiscal year 2008 valuation.

A motion was made by Michael Townsend, and supported by John Erwin, to authorize Robert Erlenbeck to send a Request for Proposal (RFP) for actuarial services for three years (beginning January 1, 2010 and the fiscal year 2009 Valuation), with two one-year renewal options and a provision to cancel. Motion carried unanimously.

- ◆ **Eddie Mack - Settlement Agreement** (*Item #s 14.3, 14.5*)
- ◆ **Lorraine Cameron - Settlement Agreement** (*Item #s 14.4, 14.5*)

These Settlement Agreements are between AFSCME Locals #1600 and #1799 and the City of Flint and allow these two individuals to retire early. Based upon Public Act 728, the City was notified of their responsibility to obtain (and pay for) an actuarial study to determine the effect the agreements would have on the Retirement System, since they are outside the scope of the Retirement Ordinance and create additional unfunded actuarial accrued liabilities. The individuals have enough service credits for retirement, but are being granted the right to retire earlier than their age requirement of 55. The GRS actuarial valuations indicate that the increase in the unfunded actuarial accrued liabilities would be \$128,698, which represents the additional cost for these two individuals to retire earlier than age 55. The Professional Services Committee discussed the alternatives for paying the additional funds: 1) The City could pay \$128,698 into the Retirement System to make it whole; 2) The City could make the monthly pension payments until the individuals reach age 55 and then the Retirement System would begin paying their pensions, as normal. {Precedent: In the David Wooster settlement, which resulted from outside litigation, the City allowed him to retire early. The Board reviewed the case and, because it was outside the System's liability, for approximately five years, the City of Flint paid his pension payments out of the General Fund. After Mr. Wooster reached his normal retirement age, the Retirement System began making the pension payments.} 3) The Retirement System pays the entire amount, assuming the additional liability. The Professional Services Committee recommends that the Board require the City to pay the additional liability, either in a lump sum or by making the pension payments until the individuals reach age 55.

Discussion followed. Chairman Bingaman asked Attorney Robbins if the Retirement Board was obligated to authorize full payment of the settlement agreements by the System. She stated that there could be an argument made that the Board was not apprised of, and was not a party to, the agreements. The Board can take the position recommended by the Committee, to have the City pay a lump sum or make the pension payments until the individuals reach the age requirement. Mr. Bingaman asked whether the Board could approve payment of the pensions dependent upon what the City pays. She stated that the agreements could be discussed with City officials from Human Resources and Labor Relations. Discussion followed. It was noted that Mr. Wooster's situation was the result of a court order and not due to arbitration. Similar settlement agreements previously

approved were made prior to the State's adoption of Public Act 728. Attorney Robbins recommended that she be given time to review these agreements in light of P.A. 728, which requires an actuarial study to find out the long-term cost to the System, and she can report back at the next meeting after her review and discussion with City officials.

A motion was made by Michael Townsend, supported by Robert Erlenbeck, to table and refer the settlement agreements with Lorraine Cameron and Eddie Mack for further legal review and discussion with City officials, to determine the City's liability and proposal regarding the additional \$128,698 required to comply with the agreements. The motion carried unanimously.

22.1 DISABILITY RETIREMENT APPLICATIONS

- ◆ **Duty – No applications pending**
- ◆ **Non-Duty – Two pending**

No further information has been received regarding the two pending applications. There is one new application that has not yet been presented to the Professional Services Committee.

22.2 STATUS OF RETIREE SELECTION OF CORRECTION OPTION FOR OVERPAYMENT

- ◆ **Catherine Allen** (*Agenda Item #15.5*) – Suzi Bye stated that Ms. Allen received an overpayment of pension funds totaling \$52,751.47 (\$11,376 per year). Attorney I'Lanta Robbins stated that the issue involved is the overpayment of a pension calculated under the equated 65 option. This issue was referred to her for review at the October Board Meeting. After reviewing the file and the Ordinance language, she stated that there is a basis to determine that the retiree should repay the entire amount because it is reasonable to believe that the retiree (as a normal or reasonable person, by legal definition) would have or should have known that her pension would be reduced at age 65. Discussion followed.

A motion was made by Robert Erlenbeck, supported by Sherry Murphy, authorizing the Retirement Office to send a letter to Catherine Allen requesting repayment of the entire amount overpaid to her as a result of her pension not being reduced at age 65. The motion carried, with one opposed (Denise Bingaman).

- ◆ **David Plewes** (*Agenda Item #15.6*) – Attorney Robbins stated that she has been in contact with him by telephone. He expressed his concerns and requested more information and more time to make a decision. The original deadline for his decision to select a repayment option is October 26. Since the Board cannot make any decisions on his case until the November meeting, she asked that he be given extra time.

A motion was made by Cass Wisniewski, supported by Robert Erlenbeck, to table consideration of David Plewes’ repayment option until the November Board Meeting. During discussion, Chairman Bingaman asked Suzi Bye to add a signature line and contact name to the overpayment letters in the future. **Motion carried unanimously.**

- ◆ **Stephen Colonna** (*Agenda Item #15.7*) – *Pending.*

23. FINANCE/INVESTMENT COMMITTEE

Douglas Bingaman reported that no meetings have been held.

- ◆ **IRS Tax Determination Letter** - *Pending w/Attorney Michael VanOverbeke* – I’Lanta Robbins has been in contact with Attorney VanOverbeke, who is reviewing all relevant FERS information, including Ordinance language changes and Collective Bargaining Agreements. The new IRS deadline is February 2010.

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

Chairman Bingaman stated that he has appointed Michelle Kirkwood as Chair of the 13th Check Subcommittee; however, no meeting has yet been held.

- ◆ **§35-16.4 “13th Check” SUBCOMMITTEE**
Issues under discussion -
 - **Five-Year Rolling Average**
 - **Percentage Funded**
 - **Age Requirements**
 - **Contributory/Non-contributory**
 - **Deferred**
 - **Straight Life Pension Factor**
 - **Beneficiaries – Spouses, Parents, Children, Others**
 - **Alternative Option; i.e., Cost of Living, etc.**
 - **Other Retirement Systems**

- ◆ **§35-17 / §35-19 Hurley Medical Center - Purchase of Time** – *Under Legal review by Attorney Robbins.* The contribution rate formula for non-contributory employees at Hurley is not addressed in this ordinance and requires clarification. There have been individuals expressing interest in purchasing time and there is no formula in place.
- ◆ **§35-8 Alternates**
 - **Hurley’s Two Elected Trustees & Alternates**
 - **Clarification of Designee for HMC CEO**
 - **Clarification of Alternates for Administration Trustees**
(*HMC CEO, City Administrator, Finance Director*)

The Board discussed the proposed revisions to the ordinance language, as presented by Attorney Robbins. The Board agreed that a letter of explanation from the Board outlining recommended Ordinance language changes, and their effect, should be included with all changes sent to City Council in the future.

A motion was made by Cass Wisniewski, supported by Michael Townsend, to approve the changes to Ordinance 35-8, as presented and discussed, and send the revised ordinance language to City Council for adoption, along with a letter of explanation. The motion carried unanimously.

- ◆ **§35-10 Alternates Ascending to Trustee Position when Vacated** – Proposed changes would allow the alternates in elected positions to ascend to the Trustee positions if there is a vacancy. Discussion followed – how would alternate vacancies be handled? Board appointments? Administration appointments? Special elections? Wait until the next regular election for the position? Attorney Robbins asked that Board Members contact her with their suggestions.

A motion was made by Robert Erlenbeck, supported by John Erwin, to table discussion until the next meeting to allow for further review by Legal Counsel. The motion carried unanimously.

- ◆ **§35-31/31.1/32/32.1 Firefighters/Police Officers – Death in the Line of Duty**
– *Under Legal review/Mark Stratman is investigating – will remain tabled*

25. OTHER BOARD BUSINESS

- ◆ **2010 Board Meeting Schedule** – **A motion was made by Sherry Murphy, supported by Robert Erlenbeck, to approve the proposed meeting schedule for 2010. The motion carried unanimously.**

Mr. Erlenbeck noted that the Board previously established a rule that hearings and other special meetings would be scheduled to take place on the morning of Regular Board Meetings and recommended that the Board maintain that rule.

Over & Underpayment Policy – Attorney I’Lanta Robbins noted that a revised policy was included in the packets. As requested at the last Board Meeting, the revision includes the updated Ordinance language regarding correction of errors.

A motion was made by Robert Erlenbeck, supported by John Erwin, to accept the amended Guidelines and Procedures for the Correction of Errors – Overpayments and Underpayments Policy. Motion carried unanimously

Suzi Bye and Julie Sadler were asked to investigate the purchase of new recording equipment.

26. ADJOURNMENT

Board Meeting Schedule

Next Regular Board Meeting – Tuesday, November 17, 2009, 1:00 p.m.

Gray & Co. Education/Training – Tuesday, November 24, 2009, 1:00 p.m.

Hearing for James Maxwell – Tuesday, December 15, 2009, 10:00 a.m.

Regular Board Meeting – Tuesday, December 15, 2009, 1:00 p.m.

A motion was made to adjourn at 2:30 p.m. by Robert Erlenbeck, supported by Michael Townsend. The motion carried unanimously.

Respectfully submitted,

Michael Townsend
Secretary