

**City of Ann Arbor Employees' Retirement System
Minutes for the Regular Meeting
July 15, 2010**

The meeting was called to order by Nancy Sylvester, Chairperson, at 8:45 a.m.

ROLL CALL

Members Present: Clark, Fraser, Kaur, Monroe, Nerdrum, Sylvester
Members Absent: Crawford, Flack, Hescheles
Staff Present: Kluczynski, Powell, Refalo
Others: Michael VanOverbeke, Legal Counsel
Jack Ceo, City Retiree
Michael Van Dam, City Retiree
Jeff Rentschler, City Retiree (*via telephone during Item D-2 discussion*)

AUDIENCE COMMENTS

Mr. Ceo requested to defer his comments until Item D-2, the Post-Retirement Benefit Increase discussion.

A. APPROVAL OF REVISED AGENDA

Mr. Powell noted that the agenda has been revised as follows:

- C-3 Purchase of Military Service Time
- F-1/F-1a Lee Munder Capital Group – Small Cap Growth Closure
- F-3 Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- G-4 APC Minutes – July 13, 2010
- H-7 Correspondence from Jeff Rentschler

It was **moved** by Nerdrum and **seconded** by Clark to approve the agenda as revised.

Approved

B. APPROVAL OF MINUTES

B-1 June 17, 2010 Regular Board Meeting Minutes

Mr. VanOverbeke noted a language correction to a motion made on page 3 of the June meeting minutes regarding the CPI increase.

It was **moved** by Nerdrum and **seconded** by Fraser to approve the June 17, 2010 Board Meeting minutes as revised.

Approved

C. CONSENT AGENDA

C-1 EDRO Resolution – Pamella A. Hicks v. Michael E. Hicks

WHEREAS, the Board of Trustees is in receipt of a Domestic Relations Order dated May 24, 2010, wherein Pamella Ann Hicks, the alternate payee, is awarded certain rights to the benefits of Michael Edward Hicks, the participant, and

WHEREAS, the alternate payee is entitled to claim a portion of the participant's retirement benefit which is to be paid as soon as administratively feasible, and

WHEREAS, said matter had been discussed with legal counsel who has opined that the applicable terms of said court order are consistent with the provisions of the Retirement System and applicable law including Public Act 46 of 1991 (MCLA 38.1701) as applicable, therefore be it

RESOLVED, that the Board of Trustees acknowledges receipt of said court order and will pay pension benefits consistent with said order as soon as administratively feasible, and further

RESOLVED, that a copy of this resolution be immediately attached as the top sheet of the pension file and other appropriate records be kept for the Retirement System relative to this matter, and

RESOLVED, that copies of this resolution be sent to Michael Edward Hicks, the participant, and, Diane M. Dramko, Esq., attorney for the alternate payee.

C-2 Authorization for Conference/Training – MAPERS 2010 Fall Conference, September 26-28, 2010 - Kluczynski

WHEREAS, the Board of Trustees (Board) of the City of Ann Arbor Employees' Retirement System (Retirement System) is vested with the authority and fiduciary responsibility for the administration, management and operation of the Retirement System, and

WHEREAS, the Board of Trustees is required to act with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims, and

WHEREAS, the Board of Trustees acknowledges that the Retirement System has evolved in complexity such that the circumstances prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims requires continuing education, training, and oversight of its advisors, and

WHEREAS, it is necessary, appropriate and incumbent upon Board trustees and/or Retirement System staff, from time to time, to participate in continuing education, training, and/or conduct due diligence trips in relation to their oversight of Retirement System advisors to ensure that Retirement System participants receive the best possible service, benefit and representation from these responsible persons, and

WHEREAS, Lora Kluczynski has requested the Board of Trustees' authorization for conference/training in Boyne Falls, Michigan, at Retirement System expense, estimated at \$1,224.00, to attend the 2010 Fall MAPERS Conference, to participate in continuing education in her responsibility as Retirement System Staff, and in keeping with Board policy, therefore it be

RESOLVED, the Board of Trustees authorizes the conference/training request of Lora Kluczynski to travel to Boyne Falls, Michigan, at Retirement System expense, estimated at \$1,224.00, to attend the 2010 Fall MAPERS Conference, to participate in continuing education in her responsibility as Retirement System Staff, and

FURTHER RESOLVED, that Lora Kluczynski comply with all travel and reporting requirements as contained in the Board of Trustees previously adopted Travel and Training Policy and Procedures.

C-3 Purchase of Military Service Time

WHEREAS, the Board of Trustees is vested with the authority and fiduciary responsibility for the administration, management and operation of the Retirement System, and

WHEREAS, Section 1:561(e) of the Retirement Ordinance, Chapter 18 of the Code of the City of Ann Arbor allows for prior Military Service Credit, and

WHEREAS, the Board is in receipt of an Application for Purchase of Military Service Time, therefore be it

RESOLVED, that the Board of Trustees hereby certifies that the following member(s) of the Retirement System have submitted the requisite documentation for the purchase of Military Service Time:

Name	Department	Requested Military Service Time	Requested Method of Payment	Cost for Purchase of Military Service Time
<u>Michael Lusk</u>	General	4 Years	Payroll Deduction	\$ 10,308.48

FURTHER RESOLVED, that the applicant(s) purchasing Military Service Time be notified of the amount of money necessary to buy the Military Service Time, and upon full payment, the member(s) shall be credited the service time.

Mr. Powell commented on Item C-2, the Authorization for Conference/Training to the Fall MAPERS Conference, noting that as of this date no Trustees have requested to attend, and suggested that if any Trustees are interested in attending, the Board pre-approve their training with an amount not to exceed \$1,200.00. The Board agreed.

It was **moved** by Fraser and **seconded** by Kaur to approve the Consent Agenda as amended (Item C-2).

Consent agenda approved

D. ACTION ITEMS

D-1 Ingram Davis EDRO/Effective Date for Alternate Payee

Mr. VanOverbeke stated that this item has been postponed from the last two meetings due to time limitations, and he had wanted the chance to thoroughly explain this situation to the Board of Trustees. Mr. VanOverbeke explained Mr. Davis' EDRO/Disability matter to the Board, and it is his opinion that the entitlement to disability benefits accrues as of the effective date an individual is granted a disability retirement. The Board granted Mr. Davis a disability retirement effective October 1, 2009. As the EDRO provides that the Alternate Payee is entitled to 50% of the Participant's benefits accrued as of May 27, 2009, Ms. Davis is not entitled to a portion of Mr. Davis's disability benefits. Therefore, absent specific language in the EDRO to the contrary, it is his opinion that Ms. Davis is not entitled to a portion of Mr. Davis' disability benefit.

The disability benefits provided by the Retirement System are intended to replace Mr. Davis's lost income and are not equivalent to a service retirement benefit. By way of analogy, if Mr. Davis would have continued working as an active employee for the City of Ann Arbor, Ms. Davis would not be entitled to the additional income earned as a result of such employment. Similarly, if Mr. Davis would simply have terminated his employment with the City as a vested former member, Ms. Davis would have no right to commence receipt of her benefits until Mr. Davis would have otherwise been eligible to do so. The award of disability benefits to Mr. Davis after his divorce does not operate to modify or increase the benefits awarded to the Alternate Payee pursuant to the terms of the EDRO. Accordingly, Ms. Davis may commence receipt of her benefits when Mr. Davis reaches the age of 60 in April of 2023.

Finally, pursuant to the terms of the EDRO, Ms. Davis is entitled to 50% of Mr. Davis' retirement benefits that accrued as of May 27, 2009. The EDRO also provides that the form of benefit must be the plan's 50% Joint and Survivor form of benefit. The Plan provisions state that Mr. Davis must elect his form of benefit at the time of his disability retirement. Accordingly, Mr. Davis is required to elect the Plan's 50% Joint and Survivor form of benefit for that portion of his retirement benefit that is being divided under the EDRO (i.e. those retirement benefits that accrued as of May 27, 2009). Prior to age 60, Mr. Davis should receive the full benefit. Upon attainment of age 60, Ms. Davis is entitled to 50% of the marital portion while both parties are alive.

It was **moved** by Fraser and **seconded** by Kaur to concur with the legal counsel's opinion, that because the right to the disability accrued after the term of marriage and outside the terms of the EDRO on file with the System, that the alternate payee has no right to the disability benefits payable to Mr. Davis, and that Mr. Davis continue to be paid his benefit, including the portion that has been retained by the System dating back to October 1, 2009, due to pending Board approval of this issue.

Approved

D-2 Re-Drafted Ordinance Language: Post-Retirement Benefit Increase

Mr. VanOverbeke stated that at the last two Board meetings the Board has discussed revising the pending Ordinance changes that were forwarded to the City Attorney's Office, and he was requested to re-draft the changes during the June Board meeting. Mr. VanOverbeke reviewed the newly-drafted language with the Board, which included CPI adjustments to base benefits (poverty level increases), the post-retirement increase language to include being eligible for an increase upon five years after retirement and attainment of age 60, and various organization and cleanup of the language in general. Mr. Fraser advised the Board that the revisions being made to the Ordinance is in the final stages and will soon be reviewed by the City's Labor Committee, after which it will be forwarded to Mr. VanOverbeke for his review, and he would be surprised if it isn't forwarded before September 2010.

A lengthy discussion ensued regarding how the language changes could affect the various collective bargaining contracts. Mr. Monroe noted that his contract states that no pension changes can be made for people hired between 1982 and 1989, so he would be voting on a change that he knows would not apply to some members of his own group, and perhaps other groups. Mr. Fraser stated there are always exceptions that the Board must consider when making these types of decisions, and when these kinds of things come up, the City has to realize that some things affect bargaining agreements and if in fact there is language that is contrary to the provisions in the contracts, then the Board has the obligation to sit down with various representatives of the employees and work through those distinctions with each proposed amendment before City Council considers it final.

Mr. Monroe pointed out the suggested change regarding a retiree having to be retired for five years as well as reaching age 60 before receiving a benefit increase, which he believes could be unfair to police or fire employees who are able to retire after 25 years of service and sometimes at a much

earlier age, and may have to wait much longer to reach age 60 than perhaps a general employee would have to wait. It was noted by Mr. Rentschler and Mr. Ceo that approving the current drafted language would help the older retirees whose earnings have eroded over a very long period of time, and that reaching age 60 was required in the past before other changes were made to the Ordinance. Mr. Monroe stated that he is only opposed to the age requirement, and not the five years or the point system which would allow more money to go to the older retirees that need it. Ms. Sylvester stated that she understands everyone's comments and concerns, but there was a motion made at the June Board meeting to add the age 60 with 5 years rule to the redrafted Ordinance language, and unless there is a motion to retract or reconsider the prior motion, then a new motion should be made. Ms. Nerdrum stated that she is in strong support of the new criteria and there has and will continue to be limited funding towards this in the near future given the funding status of the Plan, and when looking at how much people are earning from a monthly benefit perspective by age, it varies drastically, and she believes that when there is additional funding that it should go towards those that are older in their retirement years because they need it more than those that are more recently retired. After further discussion, Mr. Monroe offered the following motion:

It was **moved** by Monroe that the Board reconsider the age 60 and five years of retirement rule from the June 2010 Board meeting. *There was no second to the motion.*

Motion fails

Mr. VanOverbeke continued to review the post-retirement increase language, including eligibility, benefit adjustments, and supplemental benefit distributions. Mr. VanOverbeke summarized the changes by explaining that the Board would not be able to give a permanent or a one-time adjustment unless there is money to do so, there first has to be money in the Pension Adjustment Account. If there is money in this account the Board will have a choice of the three possible options. Mr. VanOverbeke discussed the poverty index language, stating that there are those that retired before July 1, 2000 when there was no poverty index provision in the Plan; when that was enacted although they got to benefit from it, it was not a contractual promise, but a bonus. So for those individuals that retired prior to that, a change can be made to that because there is no Article 9 Section 24 protection to that benefit. In this instance, if we keep this language, we are still not going to reduce them even though they got an increase, they will remain at that level for as long as it takes until they are no longer at the poverty level and under the new formula; if they go up, they go up. For those employees who have retired between July 1, 2000 and today's date, when they retired this program was in place, they certainly have not fallen below the poverty level yet and they may not ever fall below the poverty level, but potentially 20-30 years from now if they have been retired that long, this adjusted number could arguably fall below that. If this formula is changed, they could come in and argue that when they left, this was the formula – and that is protected. Because this Board does not know when or if this will happen, the Board may want to create a window whereby this new provision that it is looking to enact, to adjust and equate, would only apply to those people who retired prior to July 1, 2000 and those that retire after July 1, 2010.

Ms. Sylvester stated that she is still uncomfortable with this because it leaves a portion of people frozen at a certain level without being able to get further increases. Mr. Fraser stated that those people were given something they were never promised by being brought up to that level and the Board is agreeing to let them remain at that level, so he has no problem with that. Mr. Powell suggested removing this language from the draft and referring this issue to the Administrative Policy Committee for further discussion so that in the meantime, the post retirement language can be forwarded on to City Council. Ms. Sylvester asked if there is a motion to approve the minimum benefit language (Section 1) as presented by Mr. VanOverbeke. Mr. VanOverbeke stated the Board could consider adoption of a motion whereby the minimum benefit provision as indicated in subsection 1 be amended to include the requirements that the \$9,800 amount also be reduced by the corresponding percentage reduction in the retiree's straight-life retirement allowance based upon the retiree's election of an early retirement in accordance with Section 1:564(2) and/or a

retirement allowance option provided for in Section 1:566 and that that amendment be effective for those retirees that retired prior to July 1, 2000 and those retirees that retired after July 1, 2010. Mr. VanOverbeke stated the Board also has the option of making it effective July 1, 2010 going forward, or upon adoption by City Council.

Ms. Nerdrum suggested employees that are retiring now be educated around the poverty benefit and how it is populated, so if they choose to take a form of payment that is different than a life annuity, how the poverty adjustment would work upon their death for their beneficiary. Ms. Sylvester agreed that this topic should be discussed when employees go to retire, but if this doesn't get approved for six more months, what happens with the people that retire in that six month period. Mr. Fraser stated that those people be notified at the time of their retirement that this is pending, and he is comfortable with making it effective upon adoption by City Council.

It was **moved** by Fraser and **seconded** by Nerdrum to approve Section 1:592 of the drafted language as presented by legal counsel.

Motion passes, 1 abstain

It was **moved** by Fraser and **seconded** by Nerdrum to acknowledge receipt of the draft of the proposed amendments to Sections 1:573 and 1:592 with the noted changes in the motions adopted today and at the June 2010 meeting, and that the language be forwarded to City Council with the recommendation from this Board that they consider adopting the proposed Ordinance amendments.

Roll call vote:

Clark – Yes	Fraser – Yes	Monroe - No
Crawford - Absent	Hescheles - Absent	Nerdrum - Yes
Flack – Absent	Kaur - Yes	Sylvester - Yes

Motion passes 5-1

Mr. Ceo thanked the Board and Mr. VanOverbeke for their recommendation to City Council on this issue, and this language brings clarity and certainty for the Board of Trustees, for the Retiree Committee, and to the retirees. Mr. Fraser thanked Mr. Rentschler, Mr. Ceo, and the Retiree Committee for their time and effort with these changes.

E. EXECUTIVE SESSION – Disability Re-Examination

The Board convened an executive session for the purpose of discussing the medical re-examination report for Leza Scott.

Roll call vote:

Clark – Yes	Fraser – Absent	Monroe - Yes
Crawford - Absent	Hescheles - Absent	Nerdrum - Yes
Flack – Yes	Kaur - Absent	Sylvester - Yes

Executive session time: 10:50 – 10:55 a.m.

E-1 Motion: Disability Re-Examination

It was **moved** by Fraser and **seconded** by Nerdrum to acknowledge receipt of the medical report from Dr. Jeffery E. Middeldorf for the medical re-evaluation of disability retiree Leza Scott dated June 16, 2010, noting that the doctor has provided a medical opinion and report indicating that the member continues to be totally incapacitated for duty in the service of the City and that the

incapacity will probably continue to be permanent and therefore the Board resolves to continue the disability retirement benefits to Leza Scott subject to the Plan provisions and Re-Examination Policy.

Approved

(Mr. Fraser departed at this time)

F. DISCUSSION ITEMS

F-1 Lee Munder Capital Group – Small Cap Growth Closure

Mr. Powell presented a letter from Gray & Company indicating that Lee Munder Capital Group recently announced their intention to close the Small Cap Growth strategy managed by Charles Glovsky. The firm's management indicated that they did not believe in the team's ability to generate excess returns over the long-term. Mr. Powell stated that Gray & Company is recommending conducting a replacement search for this mandate, but considering that there is currently an Investment Consultant RFP pending, Mr. Powell believes it may be better for the time being to place the money in an Index Fund, and suggested that Gray & Company be asked to provide the IPC with a list of funds for review at their next meeting on August 3rd. Mr. Powell noted that in speaking with Lee Munder, it is believed that this transition could take several months or more, and they suggest the use of Exchanged Traded Funds (ETF's), which may prove very helpful as they work through the transition, and the extra guideline flexibility would require Board approval. Mr. Powell stated that Gray & Company is in support of Lee Munder's recommendation to buy up to 20% of the funds into ETF's. The Board discussed transition costs and the process and decided to refer this issue to the Investment Policy Committee for further discussion with Gray & Company. Ms. Sylvester asked if there is a motion to allow Gray & Company to begin conducting a replacement search for a small cap growth manager, and there was none.

It was **moved** by Nerdrum and **seconded** by Kaur to refer this issue to the Investment Policy Committee for further discussion and recommendation to the Board of Trustees as how to proceed for the replacement of this manager.

Approved

F-1a Lee Munder Capital Group – ETF Flexibility

Referred to the Investment Policy Committee.

F-2 Interview Dates for Executive Director Position

The Board discussed the Trustees' availability to conduct interviews for the Executive Director on August 12 and 13, 2010. Ms. Sylvester stated that Mr. Hescheles has replied that he will be out of town on those days, and Ms. Kaur also stated that she would not be able to attend the interviews if held on those days. The Board discussed alternative days as well as when to hold the next Hiring Committee meeting. It was decided that staff will send correspondence to all of the Board members asking them to set aside the two full days of Monday, September 20th and Tuesday, September 21st so that the Hiring Committee can coordinate the Executive Director interviews after the number of candidates for interviews is determined. The date for the next Hiring Committee meeting was scheduled for Friday, August 13th at 2:30 p.m.

F-3 Health Insurance Portability and Accountability Act of 1996 (HIPAA)

The Board decided to refer this item to the Administrative Policy Committee for discussion.

11:25 A.M.: DUE TO TIME RESTRAINTS AND THE IMPENDING LOSS OF A QUORUM, THE CHAIR ASKED FOR A MOTION TO ADJOURN THE MEETING AT THIS TIME IN ORDER TO CONVENE THE RETIREE HEALTH CARE BENEFIT PLAN & TRUST BOARD MEETING.

ADJOURNMENT

It was **moved** by Kaur and **seconded** by Nerdrum to adjourn the meeting at 11:25 a.m.

Meeting adjourned at 11:25 a.m.

The following items were not discussed due to the adjournment of the meeting:

G. REPORTS

G-1 Executive Report – July 15, 2010

POVERTY LEVEL PENSION ADJUSTMENTS

Staff has identified those individuals who were affected by the decrease resulting from the CPI reduction as of July 2009. Their monthly benefit has been adjusted to reflect the revised opinion of legal counsel which stated that these individuals should not have received a reduction. Because the United States Department of Labor has announced that the new CPI would be released on July 16, 2010, staff decided to wait until we receive the adjusted CPI from Gabriel, Roeder, Smith & Company. Staff expects to receive the new CPI around the 3rd week of July. This would mean that staff would not have to do multiple adjustments for the retirees which may be confusing to them.

FOIA

Staff complied with the first FOIA requested by Phil Hiltner of Raymond James Financial Services, Inc. A courtesy letter from the office was sent to all named parties in Phil Hiltner's FOIA request informing them of the information that was being forwarded to Phil Hiltner. The letter requested that if Phil Hiltner contacts them with any sale solicitation, they should notify the Pension Office. The second FOIA request received by Phil Hiltner on Wednesday, July 8, 2010 will not be answered until discussion with legal counsel.

The following e-mail was received from Phil Hiltner on Thursday, July 08, 2010:

Mr. Powell,

This morning I received a phone call from one of the retirees of whom I recently made a FOIA request. She was upset and concerned about what I am doing, and she said that her fellow retirees felt the same way. I am thinking of sending them a letter to better explain to them the reasons I made a FOIA request in hopes of mitigating some of their concerns. As I don't have any contact information for any of them, I was wondering what is the best way about going about doing this? Should I send the letters to your office and you could forward them from there?

Any help you can provide is greatly appreciated.

Thanks,
Phil Hiltner

Mr. Hiltner was told to forward any correspondence to the retirees to the Pension Office.

ADP

The City informed staff that because the Executive Director's temporary employment contract is between the Retirement System & Health Care Plan and not between the City and Executive Director, the City is not able to use its payroll services for the Executive Director's pay unless the contract is between the City of Ann Arbor and the Executive Director. Staff contacted ADP for payroll services. ADP's cost for payroll services is \$140.00 per month with a one-time set up fee of \$50.00. ADP has a \$200.00 credit for new clients. The total cost for three months would be \$250.00.

IRS REPAYMENT

As part of the VCP agreement with the IRS, the City paid the Pension System \$4,844,626.99 in June. The outstanding liability on June 30, 2011 is estimated to be \$6,955,772.42. The total IRS liability booked for the pension fund was \$17,133,975.88.

G-2 City of Ann Arbor Employees' Retirement System Preliminary Report for the Month Ended June 30, 2010

N. Gail Jarskey, Accountant, submitted the Financial Report for the month ended June 30, 2010, to the Board of Trustees:

6/30/2010 Asset Value (Preliminary)	\$351,463,737
5/31/2010 Asset Value (Audited by Northern)	\$362,737,895
Calendar YTD Increase/Decrease in Assets (<i>excludes non-investment receipts and disbursements</i>)	\$-5,354,485
Percent Gain <Loss>	-1.5%
July 14, 2010 Asset Value	\$359,162,018

G-3 Investment Policy Committee Report – No Report

G-4 Administrative Policy Committee Report – July 13, 2010

Approval of APC minutes postponed until the August Board meeting due to the loss of a quorum.

G-5 Audit Committee Report – No Report

G-6 Hiring Committee Minutes – No Report

G-7 Legal Report – No Report

H. INFORMATION

H-1 Communications Memorandum

No action taken due to loss of a quorum.

H-2 August Planning Calendar

No action taken due to loss of a quorum.

H-3 Board Tracking Report

No action taken due to loss of a quorum.

H-4 Record of Paid Invoices

The following invoices have been paid since the last Board meeting.

	PAYEE	AMOUNT	DESCRIPTION
1	DTE Energy	33.05	Monthly Gas Fee dated June 16, 2010
2	DTE Energy	272.56	Monthly Electric Fee dated June 16, 2010
3	Comcast	75.93	Monthly Cable Fee
4	AT&T	108.62	Monthly Long-Distance Telephone Service
5	Lora Kluczynski	249.64	Petty cash reimbursement
6	Consulting Physicians	625.00	Disability re-examination & report – J. Harmon
7	Gabriel, Roeder, Smith & Co.	7,675.00	Actuarial & Consulting services – 4/1/10-6/30/10
8	Career Builder, LLC	390.00	Executive Director Job Ad., 5/19/2010-6/18/2010
9	AT&T	85.85	Monthly Long-Distance Telephone Service
10	Michigan Municipal League	257.30	Executive Director Classified Ad
11	MES Solutions	655.00	Medical Examination – L. Scott, 6/16/2010
12	Staples Business Advantage	146.69	Miscellaneous Office Supplies
13	Gabriel, Roeder, Smith & Co.	2,719.00	Supplemental Valuation for 6/30/2009
14	Gray & Company	8,312.94	Investment Consultant Retainer – May 2010
	TOTAL	21,606.58	

H-5 Retirement Report

Name	Type of Retirement	Effective Date	Group	Years of Service	Service Area
Nancy Burghardt	Age & Service	July 17, 2010	General	25 years, 1 month	Public Services

H-6 Letter to Audit Committee from Abraham & Gaffney

No action taken due to loss of a quorum. The letter details A&G's responsibilities and procedures in conducting the audit.

I. TRUSTEE COMMENTS - None

**Willie J. Powell, Interim Executive Director
City of Ann Arbor Employees' Retirement System**