

**CITY OF PONTIAC, MICHIGAN  
POLICE AND FIRE RETIREMENT SYSTEM**

**March 27, 2008**

A regular meeting of the Board of Trustees was held on Thursday, March 27, 2008 at the Shrine Room, Main Level, City Hall, 47450 Woodward Avenue, Pontiac, MI 48342. The meeting was called to order at 9:13 a.m.

**TRUSTEES PRESENT**

Raymond Cochran, Secretary  
Brian Lee (*arrived at 9:21 a.m.*)  
Thomas Miller  
Craig Storum, Chairman

**TRUSTEES ABSENT**

Mayor, Clarence Phillips (*absent*)

**OTHERS PRESENT**

Cynthia Billings, Sullivan, Ward, Asher & Patton, P.C.  
Christopher Kuhn, Gray & Company  
Ellen Zimmermann, Retirement Systems Administrator  
Jane Arndt, M-Administrative Assistant

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**CONSENT AGENDA**

- A. Minutes of Regular Meeting: February 28, 2008
- B. Communications:
  - 1. Correspondence from DDJ Capital Re: Monthly Market Overview January
  - 2. Conferences:
    - a. Mountain PERS Forum – IMN – April 28-29, 2008
    - b. NYPERS Forum – IMN – April 30 – May 1, 2008
- C. Financial Reports:
  - 1. Financial Reports – February 2008
  - 2. Commission Recapture Report – January 2008
  - 3. Securities Lending – February 2008
  - 4. Accounts Payable – March 2008
- D. Remove from the Rolls:
  - 1. Billie Irwin (deceased 03-05-08)
- E. Application for Service Retirement :
  - 1. Valard Gross – PPSA / Non-Union #2427
  - 2. Peter Selenich – PFFU #2393
- F. Final Pension Calculations
  - 1. Edward Hoover #2396 \$4,191.05
  - 2. Gary Hutchinson #1689 3,518.19
- G. Application for Refund of Accumulated Contributions
  - 1. Mario Palacios – PPOA \$10,531.01
  - 2. Casey Crampton – PPOA 10,495.28

- |                           |           |
|---------------------------|-----------|
| 3. Zena Samona - PPOA     | 3,275.84  |
| 4. Veneta Friend – PPOA   | 7,981.80  |
| 5. Gilbert Garrett – PPOA | 10,440.38 |
- H. Application for Deferred Retirement:
- |                            |                    |
|----------------------------|--------------------|
| 1. Michael Herrgott – PPOA | 10 years, 0 months |
| 2. Jeremy Pittman – PPOA   | 11 years, 2 months |
| 3. Darryl Cosby – PPSA     | 23 years, 1 month  |

Chairman Storum asked to attend the IFEBP Portfolio Concepts and Management Conference at the Wharton School being held May 19, 2008 through May 22, 2008.

**RESOLUTION 08-021** By Miller, Supported by Cochran  
 Resolved, That the Board approve Chairman Storum’s attendance at the IFEBP Portfolio Concepts and Management Conference being held May 19, 2008 through May 22, 2008 with the costs to be paid from the investment earnings of the Fund.

Yeas: 3 - Nays: 0

**RESOLUTION 08-022** By Miller, Supported by Cochran  
 Resolved, That the consent agenda be approved.

Chairman Storum confirmed that the reciprocal credit for retirement applicant Valard Gross was used to establish service credit and did not impact his benefit.

## CONSULTANTS

### **Re: Gray & Company – Real Estate Allocation & Alternative Investments**

Mr. Kuhn distributed the asset allocation and market value report. He said it clearly defined where the fund is with the real estate allocation. American Realty Advisors funding level was raised \$10.4 million in May, 2007. As of January 2, 2008 they are fully funded. There are two additional real estate managers; Metropolitan, a domestic real estate manager, and Mesirow, an international real estate manager. There have been contract issues with both managers. The real estate allocation is 10% of the portfolio.

He discussed how it is difficult to appropriately allocate to the target because the value of the committed capital changes. The Metropolitan and Mesirow investments should be close to fully funded within 18 months.

Trustee Miller said that he liked the handout and felt that the data was presented in a straightforward and simple to understand format.

Mr. Kuhn said that they may move the Mesirow International Real Estate allocation under the basket clause because of it’s resemblance to private equity. That would raise the allocation to the basket clause 2%. He suggested that Ms. Billings review whether it should be allocated under real estate or the basket clause. Trustee Miller agreed that it should be determined if it can be shifted to allow for future investments.

*Trustee Lee arrived at 9:21 a.m.*

Mr. Kuhn stated that at the education session the trustees expressed an interest in timber and private equity. He said based on the unknown status of the CAPROC allocation and the current allocations in the basket clause, he felt that the fund could move forward with the timber investment but should hold off on the private equity investment. He said he would like to have Andrew Kelsen present a list of timber managers to the Board at an upcoming meeting. He also recommended that the Board move forward with the Fund VI Metropolitan investment.

Chairman Storum asked whether there is 2% or 4% available in the basket clause.

Mr. Kuhn stated that Gray & Company currently has DDJ high yield, Mesirow international real estate, and CAPROC as basket clause investments, totaling 8.2% with committed capital; another 2% would be allocated to timber. He said there would be an additional 2% available in basket clause investments if the Mesirow International Real Estate investment is classified as real estate. Private equity requires a full 4% to be fully diversified which would necessitate reducing the allocation to timber or using the proceeds from the CAPROC.

Chairman Storum said that Ms. Billings should look into the allocations to the basket clause. As monies come back from CAPROC they could be used to invest in private equity vintage years. Mr. Kuhn agreed and said that they could begin to look at private equity managers. Because due diligence for a timber investment is not as labor intensive as private equity, they could move forward with that investment first. Andrew Kelsen will come in to discuss timber managers.

Chairman Storum asked about the CAPROC tie-in on the sale of One Michigan Avenue. Ms. Billings said that the property at One Michigan was sold. She referred to correspondence included in the legal report. The property sold for \$9.1 million with CAPROC receiving approximately \$428,000.00 at the closing and a promissory note in the amount of \$450,000.00. The promissory note calls for CAPROC to receive scheduled principal payments of \$120,000 with interest on May 1, 2008, August 1, 2008 and November 1, 2008 and a final payment due one year from the date the note is signed.

The funds are to receive approximately \$256,000 of the initial closing and additional payments prorated as payments come in from the promissory note. Ms. Billings said that they should be wiring the money into the account soon to avoid paying interest.

They received correspondence that confirmed CAPROC's annual meeting will be held on April 22, 2008. Lora Lauer has been contacted and will be in attendance.

Chairman Storum asked where the system is with the CAPROC settlement and what assets are left. Ms. Billings said there are two Florida properties left. She will prepare a report for review at the next meeting. Chairman Storum said it is a good time to look at having the remaining properties appraised. We are carrying \$10 million on the books but what is the real value.

## **REPORTS**

**Re: Chairman** – None

**Re: Secretary** – None

**Re: Trustees**

Retiree Prescription Drug Coverage

Trustee Lee said that he received a call from a retiree regarding the letter being sent out from Risk Management changing their prescription drug coverage from Sterling to Humana. He was assured that the coverage is the same. Members have been mailed a copy of the new coverage.

Trustee Cochran said that he was assured that the coverage is the same. Humana has scheduled informational presentations to provide members with additional information and answer any questions.

Deferred Members Healthcare Coverage

Trustee Lee said that he recently heard from a number of laid off police officers with concerns regarding their healthcare coverage. The officers were told that that the City will only provide payment for a portion of their medical benefit when a vested member is under 40 years of age. The payment will be calculated at 2½% per year of service toward the payment of their medical benefit.

There was discussion about whether the officers were notified, that the Retirement Office was not aware of this new policy and whether this was in violation of the union contract. Ms. Zimmermann said that some of those recently laid off were under age 40. Trustee Lee stated he inquired at Risk Management and was told that if someone came down to ask, they were told.

Chairman Storum stated that the members have been funding the VEBA to pay for their healthcare coverage. The policy states that a member at age 50 with 10 years of service or a member with 25 years of service is eligible and will receive full healthcare coverage. Ms. Billings noted that changing this policy could be considered an unfair labor practice.

She reviewed a recent Michigan Supreme Court ruling that stated retiree healthcare is not a protected benefit under the Michigan Constitution but rather is a contractual obligation. This could enable municipalities to make changes in deductibles or insurance carriers, depending upon their contractual obligations. She said she would have to review the contracts to determine what healthcare obligations they specify. It could also be determined that there are provisions within the VEBA document that could protect the benefit.

Trustee Cochran said that the City is moving in that direction with non-union members. He also said that Larry Marshall indicated that there are contractual issues and this would have to be negotiated.

Trustee Lee said it is important to figure this out. Chairman Storum suggested calling a special VEBA meeting.

Chairman Storum said that he was contacted by a former union president regarding a letter he received from the Retirement Office. He confirmed that the letter was pertaining to the overpayment issue. Ms. Zimmermann stated that the overpayment letters went out and the members were offered the option of spreading the repayment out or have it deducted from their COLA payment.

**Re: Staff**

Plan Documents

Ms. Zimmermann notified the Board that on March 10, 2008 the Human Resources Director and City Attorney requested copies of the plan documents. Chairman Storum questioned whether these were being provided to Attorney Eric Goldstein. Trustee Cochran said that Attorney Goldstein is working on behalf of the City.

Trustee Cochran said they requested copies of the plan documents to review the provision that would allow the transfer of funds in a defined benefit plan that is funded in excess of 150%. The excess would be transferred to fund the VEBA.

Chairman Storum asked if there are any limitations. Trustee Cochran said that the fund has to keep an over-funding position in order to fund the VEBA. This would take the payment for healthcare costs out of the general fund and into the VEBA fund. They are also considering including life insurance.

The Board directed Ms. Billings to review the plan documents and provide a report.

PAS Forms – Part-Time Employees

Ms. Zimmermann informed the Board that Human Resources has informed the Retirement Office that they will only provide PAS Forms for permanent regular employees. Trustee Cochran asked if this will impede the Retirement Office's ability to obtain service credit to calculation benefits. Ms. Zimmermann said that HR agreed to send the forms only when employees retire. This limits the system of checks and balances but we will do our best.

Trustee Miller asked who will incur liability if there are mistakes. Ms. Zimmermann said the fund would be liable for any overpayments or errors in calculations. The Human Resources Department does not seem to want to share employee information with the Retirement Office.

Chairman Storum questioned whether it would affect the Police and Fire Retirement System. He did not think there were any part-time employees. Discussion followed that the current provisions could change and it could have an affect on obtaining reciprocal time.

Chairman Storum directed Ms. Zimmermann to draft a letter from the Board requesting that Human Resources continue to provide the necessary documentation and all PAS Forms for employees.

**RESOLUTION 08-023** By Miller, Supported by Lee

Resolved, That the Board send a letter to Human Resources requesting to continue to receive all PAS Forms and documentation for employees.

Yeas: 4 – Nays: 0

Chairman Storum said that there is an issue regarding a member's service credit. The member filled a lawsuit against the City and was awarded six months back pay. When he had his retirement numbers run by the office that service credit was not included. He will be eligible to retire this fall if the six months of service credit is included. Ms. Zimmermann said she will look into the issue. She asked if the member could please supply a copy of the award to the office.

**Re: Legal**

United Rentals

Ms. Billings reported that the settlement continues to be negotiated.

Jarden Securities

Ms. Billings reported that the Court has not issued a ruling.

Maxim Integrated Products

Ms. Billings reported that the Defendant's Motion to Dismiss is still pending.

Fossil, Inc.

Ms. Billings reported that the Defendant's Motion to Dismiss is still pending.

Tempur-Pedic International, Inc.

Ms. Billings reported that the Defendant's Motion to Dismiss is still pending.

UBS/AG Securities Class Action

Ms. Billings reported that at the last meeting the Board ratified the Secretary's signature on the retainer agreement. The system was appointed lead plaintiff on March 6, 2008 along with two other plaintiffs. This litigation is in the initial stages of discovery. She said it may be necessary for a trustee from the Board to attend the summary deposition hearing.

CAPROC, LLC Sale of One Michigan Avenue

Refer to Consultants

CAPROC Annual Meeting

Refer to Consultants

Metropolitan Fund VI

Ms. Billings stated that at the January, 2008 meeting the Board approved to retain the Metropolitan Real Estate Partners Fund V investment. She referred to correspondence included in the legal report stating that Fund V had its final close in October, 2007. Fund VI will have its first close on March 26, 2008. She requested an extension so the Board could review the

investment. From a legal perspective, the documents for Fund VI are identical to the documents for Fund V, which she had previously reviewed with the Board.

**RESOLUTION 08-024** By Miller, Supported by Lee

Resolved, That the Board execute the agreement with Metropolitan Real Estates Partners VI, L.P.

Yeas: 4 – Nays: 0

Coughlin Stoia Portfolio Monitoring Report for the Quarter Ended September 30, 2007

Ms. Billings reported that this is for the trustee's information. It displays the securities litigation actions filed by Coughlin Stoia on behalf of the system and the losses incurred by the System during the alleged claim period. Trustee Lee asked why there are no reported losses for some of the companies listed. She explained that these are investments where the System held the securities during the alleged claim period, but did not incur losses.

FOIA Request – Jascula/Terman and Associates

Ms. Zimmermann described a FOIA request received from Jasculca/Terman and Associates a marketing firm out of Chicago. She said that she has complied with the FOIA request.

Ms. Billings explained that the information requested was 100% disclosable under FOIA. However, there is no case law that states the system has to comply with an out-of-state request. She said if they did not comply and the issue was taken to Court and the system was found not to be in compliance they would be responsible for 100% of the plaintiff's legal fees. She recommended that the system respond to out-of-state this FOIA request.

Chairman Storum referred to their request for an ethics policy and that the Board does not have one. Ms. Billings said that the Board does not have a formal policy but under state law, the Board is always subject to the highest fiduciary duty to participants.

Bernstein Litowitz Advocate for Institutional Investors

Chairman Storum asked Ms. Billings to explain the Stoneridge Decision. She said that this decision makes it more difficult for investors to file securities litigation claims against third party vendors. Ms. Zimmermann said that this decision refers to "scheme liability" when corporations work with other companies to develop schemes that result in securities litigation. This decision scales back the investor's scope of liability.

**Re: Union Representatives - None**

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**NEW BUSINESS**

**Re: Fire Trustee Election**

Ms. Zimmermann stated that Chairman Storum's term as Fire Trustee will expire in June, 2008. She will distribute the election materials on April 1, 2008.

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## UNFINISHED BUSINESS

### **Re: C. Gackstetter MOU / Cost Study**

Ms. Zimmermann referred to a copy of the MOU included in the agenda packet. She stated that the grievance was not dated in 2006. There was discussion that the Memorandum of Understanding was prepared by Attorney Eric Goldstein. Ms. Zimmermann stated that in order to implement the MOU it is required that Mr. Marshall present a copy of the cost study to City Council. Ms. Billings confirmed that state law requires that the cost study be presented to the legislative body.

Trustee Lee questioned the signature of Kevin Harris on the grievance sine he has only been the President of the Pontiac Police Supervisors Association for a few months. Ms. Zimmermann said that Larry Marshall did not have the date of the signatures recorded on the grievance.

Ms. Billings said that according to Public Act 728 an actuarial study has to be done in advance of implementation and presented to the Board and Council at least seven days in advance of implementation. They have to give notice so the parties understand the cost associated with the benefit.

Chairman Storum said that he questions the MOU concept. Twelve years ago there was a Police Chief (Ellsworth) that came from the ranks and was promised a benefit different from the rest of the union according to the contract. The union took the issue to Court and the Board won. He asked if there is any difference providing this benefit. Ms. Billings said she would review the Ellsworth decision.

Chairman Storum asked why they would single out one or two persons and award a benefit different from the rest of the union. He asked what percentage of payroll is associated with this benefit and the total cost of the present value. Ms. Zimmermann said it is likely too small an amount to calculate the percentage of payroll.

Chairman Storum suggested that the cost study be presented to Council before approval. He also said a letter should be sent to Council, Human Resources and Carmen Gackstetter stating that before the increased benefit can be approved it has to be presented to Council per Public Act 728.

### **RESOLUTION 08-025** By Lee, Supported by Miller

Resolved, That the Board direct correspondence to City Council, Human Resources and Carmen Gackstetter stating that in order to implement the cost study it has to be presented to the legislative body before the Board can implement the benefit.

Yeas: 4 – Nays: 0

### Valuation Software



Chairman Storum questioned why the search for valuation software was not included on the agenda. He asked that it be carried forward under Unfinished Business.

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### **SCHEDULING OF NEXT MEETING**

Chairman Storum stated that he has a conflict with the date of the April, 2008 regular meeting. There was discussion which resulted in the meeting being rescheduled for Monday, April 21, 2008.

Regular Meeting on April 21, 2008 at 9:00 a.m., in the Shrine Room, City Hall, Pontiac, Michigan.

**RESOLUTION 08-026** By Miller, Supported by Lee

Resolved, That the Board move the April, 2008 regular meeting to April 21, 2008 at 9:00 a.m., in the Shrine Room, City Hall, Pontiac, Michigan.

Yeas: 4 – Nays: 0

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### **ADJOURNMENT**

**RESOLUTION 08-027** By Cochran, Supported by Miller

Resolved, That the meeting be adjourned at 10:17 a.m.

Yeas: 4 – Nays: 0

I certify that the foregoing are the true and correct minutes of the meeting of the Police and Fire Retirement System held on March 27, 2008.

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Raymond Cochran, Secretary

*As recorded by Jane Arndt*