

**CITY OF PONTIAC  
POLICE AND FIRE RETIREE PREFUNDED  
GROUP HEALTH & INSURANCE PLAN  
BOARD OF TRUSTEES VEBA MEETING MINUTES  
FEBRUARY 28, 2014**

**Trustees Present**

Matt Nye, Chairman  
Lon Britton  
Nevrus Nazarko, Secretary (8:37)  
Craig Storum  
Deirdre Waterman, Mayor (11:00)

**Others Present**

Matt Henzi, Sullivan, Ward, Asher & Patton  
Chris Kuhn, Gray & Company  
Chuck Wytrychowski, BeneSys, Inc.  
Liz Edwards, BeneSys, Inc.  
Walter Moore, Retiree

**Trustees Absent**

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*The meeting was called to order at 8:33 a.m.*

**AGENDA CHANGES**

**CONSENT AGENDA**

- A. Approval of Regular Meeting Minutes: January 21, 2014
- B. Financial Reports
  - 1. Financial Reports – December 31, 2013
  - 2. Bills for Ratification – February, 2014

**RESOLUTION 14-010** By Britton, Supported by Storum  
Resolved, That the Consent Agenda for February 28, 2014, be approved.

Yeas: 3 – Nays: 0

**CONSULTANTS**

- A. Gray & Company

Mr. Kuhn reviewed the Fund status. He noted that the fourth quarter of 2013 was great for equities. The S & P was a little behind, and MSCI was a little behind, and emerging markets did not keep pace. Barclays was down a bit for the quarter and had a flat year. The Fund was up 6.75% for the fourth quarter, and 23.6% for the 2013 year. He stated he has never seen such a high return for one year. It is ahead of the policy index net of fees for five consecutive years. LS Investments have done as they had hoped; Broadview had a good quarter and was up 46% for the year. Dodge & Cox had a good year as well. Bradford & Marzec had an even quarter and year, but was over-performing in a difficult environment. Pluscios was up 3% for the quarter. The

Fund is valued at \$38,000,000 as of December 31, 2013, reflecting a 15% return over five years, which is very powerful. Compared to other public funds, we are in the top 10th percentile as far as performance.

Trustees Storum and Britton thanked Mr. Kuhn for his efforts and stated he has done a great job!

Mr. Kuhn stated that the Franklin Templeton fund transfer did occur but was not reflected in the report. Bloomfield will receive the transfer by March 31 which will probably come from Bradford & Marzec. He discussed Bradford & Marzec and noted they are still on the watch list.

## **REPORTS**

- A. Chairman
- B. Secretary
- C. Trustee Committees
- D. Legal, Attorney's Report, Sullivan, Ward, Asher & Patton, P.C., Matthew Henzi

### **Attorney Report – General Matters:**

#### IRS Request for Form 990

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### Electronic Meeting / House Bill 4363

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### Response to Political Contribution Disclosure Statements

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### Bloomfield Capital

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### Miscellaneous Articles

Attorney Henzi addressed these articles for the Board in the Attorney Report.

#### Proposed PF VEBA Ordinance Amendment

Attorney Henzi discussed the VEBA Ordinance Amendment and the lawsuit brought by CPREA, a retiree association, that is pending in the United States 6<sup>th</sup> Circuit Court of Appeals, located in Cincinnati. CPREA's lawsuit against the City of Pontiac argues that executive orders issued by the City's Emergency Manager that reduced or eliminated retiree health care coverage violated the United States Constitution. The federal appeals' court is entertaining oral arguments by the parties on March 19. The hearing concerns the issue of whether the federal trial Judge erred by refusing to stay the executive orders pending litigation between the parties. If CPREA wins, then the City will be required to provide insurance coverage at levels as they existed prior to February 1, 2012. Attorney Henzi stated that the Police and Fire Retirement System has a pending appeal on this similar issue in the Michigan Court of Appeals. However, no hearing date has been scheduled as

of yet. This suit also sought to restore benefit levels to January 2012 levels. The parties filed their appeal briefs in February.

Chairman Nye stated he believes we should follow the VEBA trust as written. Trustee Britton stated we were making progress in coming to some sort of agreement with the City as far as contributions and how to "split the pie" and getting the pre-1996 retirees into the VEBA. However, the correspondence he has seen has not gone that way, and now those retirees are getting invoiced by the City. He thought we would hold off until there is a resolution.

Trustee Nazarko stated that the letters/invoices sent to pre-1996 retirees which state each retiree is 100% responsible for health insurance costs were sent in light of November's litigation stay. Someone has to pay for their coverage. The City feels they have to get the monies somewhere. The VEBA is not an option. He asked why does the Board continue to make arrangements since the issue is still in court, and he has no options at this point. The City's intention is that, for the months waiting for the decision, the City will recoup the cost.

Trustee Britton asked that the invoices have been sent out, but what if the retiree does not have the funds to pay? Trustee Nazarko stated his option then is to send it to collection and cancel coverage. Trustee Britton stated that the City has the funds and has agreed to negotiate on this, but it does not seem that it is being handled fairly. Trustee Nazarko stated his intention is to take steps to include these pre-1996 retirees as VEBA members. His preference would have been to provide coverage while this is being litigated and discussed: "let's make it legal" and "hold the City harmless."

Chairman Nye stated that Trustee Nazarko was going to present a proposal to the City Administrator. The proposal was a compromise that would provide that the City would budget a fixed amount annually to be earmarked for the City's actuarially required contributions for the PFRS and PF VEBA. For example, this number might be \$2.5 Million. If the ARC for the PFRS was \$2.2 Million, then the excess would be deposited into the VEBA. If the ARC was \$2.5 Million, then \$0 would be deposited into the VEBA. Trustee Nazarko stated that he did. Chairman Nye stated that no, it did not happen. He read the City Administrator's five statements and it was not addressed. Trustee Nazarko stated he presented it to the City Administrator who is waiting for the Board to make the request. Chairman Nye stated that we are waiting and getting nothing back in response. Attorney Henzi stated he has not received anything back either.

Guest Moore said the final authority is the TAB Board. Chairman Nye stated he looks to pursue the City Administrator whom he feels is obstructing the PF VEBA from being placed on the City Council meeting agendas. Trustee Britton stated it seems we have a clear lack of communication; we proposed through Trustee Nazarko and have heard nothing back. What will it take? We want to build a bridge, and all we get is rejection. Trustee Nazarko stated the Board should have had a response. Trustee Britton asked what do you want for a response: Court; attorneys?

Attorney Henzi stated his biggest concern is that Trustee Nazarko presented a proposal to the City Administrator and we never heard back from the City Administrator or City Attorney. He does not want us to spin our wheels and have the City Administrator refuse or ignore the proposal. Trustee Nazarko stated that the City knows what has been budgeted and what it can afford over the next

couple of years. Attorney Henzi stated that the goal of both sides is the City comes out of receivership. There are two options: the City and VEBA do not resolve how to fund the PF VEBA once the City emerges from receivership, or the parties develop a compromise that would allow for some agreement on funding the VEBA and also allowing pre-1996 retirees to be included in the VEBA as members. At the meeting between counsel, Chairman Nye and the City Administrator and his counsel, as well as Trustee Nazarko on this issue, the City Administrator suggested the City would never agree to revise the VEBA Trust to include pre-1996 retirees as members unless the VEBA board agreed that the City should be forever released from any contributions to the VEBA, even after the City emerges from receivership. Since Attorney Henzi did not receive any response from the City Administrator or his counsel about the City's position on resolving the funding of the VEBA, then it appears that the City Administrator is not interested in any compromise.

Chairman Nye stated that the Board came up with an idea to help the VEBA and OPEB retirees, and feels that the City Administrator just refuses to discuss these issues with the Board and now claims that he is "waiting for a number from the Board." Chairman Nye does not feel the Board can subsidize insurance costs for OPEB retirees at this time under the current situation. He still wants to negotiate with the City Administrator and try to present to City Council.

Trustee Storum stated that the Board has approved payment for OPEB and has tried to incorporate them into the VEBA. When the Temporary Restraining Order went away, so did the option of the VEBA paying for them. We told them we want to see the actuarial reports before changing contribution rates. We want to see it in writing.

Chairman Nye stated he wants a letter to go out to all retirees as soon as possible explaining the timeline of what is happening. Attorney Henzi stated he will draft the letter. Chairman Nye also stated that the City should present the Board with a bill for the OPEB retirees which the Board should pay. Attorney Henzi commented that if the Board receives a bill from the City, then it appears the City is interested in negotiating a resolution to the issue of how to fund the VEBA when the City emerges from receivership. If the Board does not receive an invoice from the City, it will appear that the City is not interested in negotiating on this issue.

Trustee Britton stated that if the City sues the OPEB retirees to get the money, if they lose, then the participant has a valid point and may sue the Board. Attorney Henzi stated that was a good point, and asked for input on what the letter should say. Chairman Nye stated he does not think the VEBA can pay. Trustee Britton stated he thinks the Board can say "as of \_\_\_\_\_ date this is in the future discussions with the City." Chairman Nye stated at some point the Board has to make the decision not to pay the bills. The Board's process has not been followed, by the TAB Board, City Council, or the City Administrator.

Trustee Storum stated that the Board did agree to fund and pay based on ongoing negotiations with the City, as long as the Board continued to negotiate this issue. Chairman Nye stated that the City is not negotiating with the Board. Trustee Britton stated that former Trustee Naglick and former Mayor Jukowski worked with the Board on getting a letter out to retirees. The Board's letter should state that the Board can no longer subsidize health care insurance costs for pre-1996 retirees as of April 1. Chairman Nye stated that setting a hard date is proper. Trustee Britton

stated that the Board made decisions based on good faith efforts; now that the Board knows this does not exist the Board should set a hard date.

Trustee Nazarko asked how is the Police and Fire OPEB situation different from GERS? Mr. Moore stated that GERS has not been funded so the VEBA cannot give money to fund it. Trustee Nazarko stated he understands where the City Administrator is coming from. If this should go to court and the City loses, there would be no way for the City to pay the ARC to the VEBA. Chairman Nye stated he does not think it is the Board's job to continue to bail the City out. The Board has bent over backwards to help. Mr. Moore stated he thinks everyone should be copied on the letter, the state finance boards, the governor, not just the City Administrator.

Attorney Henzi agrees that if the City goes into bankruptcy, then the VEBA can react accordingly. He asked the City Administrator what happens if the City does go bankrupt. He thinks the VEBA fund could be spent on all pre- and post-1996 retirees. Chairman Nye stated we should send the letter to all pre- and post-1996 retirees.

**RESOLUTION 14-011** By Britton, Supported by Storum

Resolved, That a letter describing the current situation with respect to retiree health care coverage be drafted by legal counsel with an effective date of April 1, 2014, and mailed to all pre- and post-1996 retirees.

Yeas: 3 – Nays: 1 – Abstain: 1

Trustee Britton stated that the Board had no knowledge that retirees would be invoiced by the City. Trustee Nazarko stated he agrees with the intent, but not with the timing. Mr. Wytrychowski discussed the issue of the April 1 termination date as opposed to January 1. How can they secure coverage elsewhere if they are cut off April 1. Trustee Britton stated to make sure the letter states it is in the City's hands. Mr. Moore stated that this will cause a lot of confusion, and asked if there is any way we could hold an informational meeting? Chairman Nye stated that many people live out-of-state but believes it would be helpful, and will take it into consideration.

Mr. Wytrychowski stated that we could send plan provider options and census data to other carriers for pricing. Contributions have five self-pay deductions. The deductions the City is asking for is different, including OPEBs based on the September communications. He also commented that there was no news on updated dental coverage.

**UNFINISHED BUSINESS**

- A. Plan Provider Options
- B. Participant Contributions

**NEW BUSINESS**

- A. Fee Contribution Notices to Participants

**CORRESPONDENCE**

A. Pluscios Management 2013 Market Review

**NEXT MEETING DATE: March 27, 2014**

**ADJOURNMENT**

**RESOLUTION 14-012** By Storum, Supported by Britton  
Further Resolved, That the meeting be adjourned at 11:07 a.m.

Yeas: 5 -- Nays: 0

I certify that the foregoing are the true minutes of the  
Police & Fire Retirement Pre-funded Group Health  
and Insurance Plan "VEBA Trust" on February 28,  
2014.



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Nevrus Nazarko, Secretary  
*As recorded by BeneSys*